VOLUME 52, NUMBER 8 LEGISLATIVE RESEARCH COMMISSION FEBRUARY 1, 2026

ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, January 15, 2026

MEETING NOTICES

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet on February 9, 2026 at 1:00 p.m. in room 149 Capitol Annex.

ARRS Tentative Agenda –1259 Online agenda updated as needed

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Title		Chapter	Regulation
806	KAR	050:	155
Cabinet, Department, Board, or Agency		Office, Division, Board, or Major Function	Specific Regulation

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The following agenda may not take into consideration regulations that may be added for informational review of regulations, removed to either complete the public comment process, or are deferred or withdrawn by promulgating agencies.

Administrative Regulation Review Subcommittee
TENTATIVE Meeting Agenda
Monday, February 9, 2026 at 1:00 p.m.
Annex Room 149

1. CALL TO ORDER AND ROLL CALL

2. REGULATIONS FOR FULL REVIEW

AGRICULTURAL EXPERIMENT STATION
Feed
012 KAR 002:006. Definitions for 12 KAR Chapter 2. (Deferred from December)
012 KAR 002:011. Label format. (Deferred from December)
012 KAR 002:018. Guaranteed analysis. (Deferred from December)
012 KAR 002:026. Ingredients. (Deferred from December)
012 KAR 002:041. Drug and feed additives. (Deferred from December)
012 KAR 002:046. Poisonous or deleterious substances. (Deferred from December)
012 KAR 002:051. Manufacturing conditions. (Deferred from December)

Pet Food
012 KAR 003:012. Label format and labeling. (Amended After Comments)
012 KAR 003:022. Expression of guarantees. (Amended After Comments)
012 KAR 003:027. Ingredients. (Amended After Comments)
012 KAR 003:028. Descriptive terms. (Amended After Comments)
012 KAR 003:032. Feeding directions. (Amended After Comments)
012 KAR 003:037. Drugs and pet food additives. (Amended After Comments)
012 KAR 003:039. Nutritional adequacy. (Amended After Comments)
012 KAR 003:042. Statements of calorie content. (Amended After Comments)

EDUCATION AND LABOR CABINET
Education Professional Standards Board
Certification Procedures
016 KAR 004:090. Reissuance.

DEPARTMENT OF LAW
Office of Regulatory Relief
040 KAR 012:440. Health Spas.
040 KAR 012:520. Transient Merchant Permit Bonds.

KENTUCKY PUBLIC PENSIONS AUTHORITY
General Rules
105 KAR 001:020. Reciprocal program between CERS, KERS, SPRS, TRS, JRP and LRP.
105 KAR 001:150. Installment purchase procedures.
105 KAR 001:300. Determination of service credit for local school board classified employees.
105 KAR 001:340. Rollovers and transfers of contributions in other plans.
105 KAR 001:350. Collection of account under $1000 by next of kin.
105 KAR 001:445. Trustee elections.

BOARDS AND COMMISSIONS
Board of Long-Term Care Administrators
201 KAR 006:030. Temporary permits. (Deferred from September)
201 KAR 006:061. Fees.
201 KAR 006:071. Continuing education requirements. (Deferred from September)

Board of Veterinary Examiners
201 KAR 016:730. Approved allied animal professional (AAHP) programs; education requirements. (Deferred from November)
201 KAR 016:731. Examination requirements for AAHP providers. (Amended After Comments) (Deferred from November)
201 KAR 016:732. Application requirements for AAHP licenses – reinstatement. (Amended After Comments) (Deferred from November)
201 KAR 016:735. Renewal requirements for AAHP licenses – renewal notice – expiration. (Deferred from November)
201 KAR 016:737. Responsibilities for AAHP providers; limitations on practice. (Amended After Comments) (Deferred from November)
201 KAR 016:762. Application requirements for veterinary facility registration; veterinarian managers; registered responsible parties. (Amended After Comments) (Deferred from December)
201 KAR 016:767. Registered veterinary facilities – Duties of registered responsible parties and veterinarian managers. (Amended After Comments) (Deferred from December)
201 KAR 016:772. Application requirements for AAHP facility registration; AAHP managers; Registered responsible parties. (Deferred from November)
201 KAR 016:775. AAHP facilities – Renewal notice – Requirements for renewal and reinstatement. (Deferred from November)

201 KAR 016:777. Registered AAHP facilities – Duties of registered responsible parties and AAHP managers. (Deferred from November)

Board of Nursing
201 KAR 020:476. Dialysis technician credentialing requirements for initial credentialing, renewal, and reinstatement.
201 KAR 020:490. Licensed practical nurse infusion therapy scope of practice.

Board of Licensure for Occupational Therapy
201 KAR 028:240E. Occupational Therapy Licensure Compact. (Filed with Ordinary) ("E" expires 09-04-2026)

Board of Licensed Professional Counselors
201 KAR 036:100E. Counseling compact. (Filed with Ordinary) ("E" expires 09-04-2026)

Board of Licensed Diabetes Educators
201 KAR 045:110. Supervision and work experience.
201 KAR 045:120. Renewal, reinstatement, and inactive status.
201 KAR 045:130. Continuing education.
201 KAR 045:150. Complaint procedures.
201 KAR 045:170. Application procedures.
201 KAR 045:180. Diabetes Education Courses.
201 KAR 045:190. Telehealth diabetes education.

Board of Medical Imaging and Radiation Therapy
201 KAR 046:020. Fees.
201 KAR 046:030. Education for medical imaging technologists, advanced imaging professionals, nuclear medicine technologists, radiographers, and radiation therapists.
201 KAR 046:045. Temporary license application for medical imaging technologists, advanced imaging professionals, radiographers, nuclear medicine technologists, radiation therapists, and student radiographers.

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
Water Patrol
301 KAR 006:001. Definitions for 301 KAR Chapter 6.
301 KAR 006:015. Boat and motor restrictions.
301 KAR 006:020. Boating safety equipment.

CABINET FOR ECONOMIC DEVELOPMENT
Kentucky Economic Development Finance Authority
307 KAR 001:006. Applications and Fee Structure for Kentucky Incentive Programs under the Kentucky Economic Development Finance Authority.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
Office of the Secretary
501 KAR 006:420E. Corrections policies and procedures: inmate rules and discipline. (Filed with Ordinary) ("E" expires 08-16-2026)
501 KAR 006:460E. Corrections policies and procedures: inmate work programs. (Filed with Ordinary) ("E" expires 08-16-2026)
501 KAR 006:470E. Corrections policies and procedures: inmate education and training. (Filed with Ordinary) ("E" expires 08-16-2026)
501 KAR 006:510E. Corrections policies and procedures: release preparation and temporary release. (Filed with Ordinary) ("E" expires 08-16-2026)
501 KAR 006:530E. Corrections policies and procedures: programs and sentence credits. (Filed with Ordinary) ("E" expires 08-16-2026)

Department of Juvenile Justice
Child Welfare
505 KAR 001:140E. Department of Juvenile Justice Policies and Procedures Manual: detention services. (Filed with Ordinary) ("E" expires 06-22-2026) (Not Amended After Comments) (Deferred from January)
505 KAR 001:140. Department of Juvenile Justice Policies and Procedures Manual: detention services. (Filed with Emergency) ("E" expires 06-22-2026) (Deferred from January)
505 KAR 001:410E. Restrictive housing and protective custody. (Filed with Ordinary) ("E" expires 06-22-2026) (Amended After Comments) (Deferred from January)
505 KAR 001:410. Restrictive housing and protective custody. (Filed with Emergency) ("E" expires 06-22-2026) (Amended After Comments)

TRANSPORTATION CABINET
Department of Vehicle Regulation
Motor Vehicle Tax
601 KAR 009:120E. Accessible online insurance verification system. (Filed with Ordinary) ("E" expires 09-07-2026)

EDUCATION AND LABOR CABINET
Office of Unemployment Insurance
787 KAR 001:370E. Professional Employer Organization Contribution and Reporting Requirements. (Filed with Ordinary) ("E" expires 09-11-2026)

PUBLIC PROTECTION CABINET
Department for Alcoholic Beverage Control
Tobacco Enforcement
804 KAR 013:010E. Tobacco enforcement and administration. (Filed with Ordinary) ("E" expires 07-28-2026) (Amended After Comments)

804 KAR 013:010. Tobacco enforcement and administration. (Filed with Emergency) (“E” expires 07-28-2026)
804 KAR 013:020E. Tobacco, nicotine, or vapor product license application forms. (Filed with Ordinary) (“E” expires 07-28-2026) (Amended After Comments)
804 KAR 013:020. Tobacco, nicotine, or vapor product license application form. (Filed with Emergency) (“E” expires 07-28-2026)
804 KAR 013:030E. Causes for denial of tobacco, nicotine, or vapor product license. (Filed with Ordinary) (“E” expires 07-28-2026) (Amended After Comments)
804 KAR 013:030. Causes for denial of tobacco, nicotine, or vapor product license. (Filed with Emergency) (“E” expires 07-28-2026)
804 KAR 013:040E. Notice of intention to apply for tobacco, nicotine, or vapor product transitional license. (Filed with Ordinary) (“E” expires 07-28-2026) (Not Amended After Comments)
804 KAR 013:040. Notice of intention to apply for tobacco, nicotine, or vapor product transitional license. (Filed with Emergency) (“E” expires 07-28-2026)

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Health Services and Facilities
902 KAR 020:150. Freestanding Birthing Centers.

Controlled Substances
902 KAR 055:015. Schedules of controlled substances. (Filed with Emergency) (“E” expires 06-15-2026) (Amended After Comments)

Department for Medicaid Services
Payment and Services
907 KAR 003:320. Beneficiary Advisory Council and modifications to the Advisory Council for Medical Assistance to establish the Kentucky Medicaid Advisory Committee. (Filed with Emergency) (“E” expires 07-06-2026) (Not Amended After Comments)

Outpatient Pharmacy Program
907 KAR 023:010. Outpatient Pharmacy Program. (Not Amended After Comments)

3. REGULATIONS REMOVED FROM FULL REVIEW

COMMISSION ON HUMAN RIGHTS
Human Rights
104 KAR 001:010. Posting, distribution and availability of notices and pamphlets. (Filed with Emergency) (“E” expires 06-16-2026) (Deferred from January)

BOARDS AND COMMISSIONS
Board of Licensure for Professional Engineers and Land Surveyors
201 KAR 018:072. Experience. (Deferred from November)

EDUCATION AND LABOR CABINET
Board of Education
Pupil Transportation
702 KAR 005:130. Non-school bus passenger vehicles. (Amended After Comments) (Deferred from November)

Office of Instruction
704 KAR 003:410. Preschool education program for four (4) year old children. (Comments Received; SOC ext. due 2-13-2026)

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Child Welfare
922 KAR 001:565. Service array for a relative or fictive kin caregiver. (Comments Received; SOC ext., due 2-13-2026)

Expiration dates in this document have been determined pursuant to KRS Chapter 13A provisions. Other statutes or legislation may affect a regulation's actual end date.

STANDARD ADMINISTRATIVE REGULATION REVIEW PROCEDURE
Overview for Regulations Filed under KRS Chapter 13A

(See KRS Chapter 13A for specific provisions)

Filing and Publication

Administrative bodies shall file all proposed administrative regulations with the Regulations Compiler. Filed regulations shall include public hearing and comment period information; a regulatory impact analysis and tiering statement; a fiscal impact statement; and, if applicable, a federal mandate comparison and any required incorporated material. Administrative regulations received by the deadline established in KRS 13A.050 shall be published in the *Administrative Register of Kentucky*. Emergency administrative regulations become effective upon filing.

Public Hearing and Public Comment Period

The administrative body shall schedule a public hearing on a proposed administrative regulation. The public hearing is held between the 21st and the last workday of the month in which the public comment period ends. Information about the public comment period shall include: the place, time, and date of the hearing; the manner in which a person may submit written comments or a notification to attend the hearing; a statement specifying that unless a notification to attend the hearing is received no later than 5 workdays prior to the hearing date, the hearing may be cancelled; the deadline for submitting written comments; and the name, position, and contact information of the person to whom notifications and written comments shall be sent.

Public comment periods for ordinary regulations end on the last day of the month that follows publication; whereas, public comment periods for emergency regulations run through the last day of the month in which the regulation was published. For other ordinary regulations with open comment periods, please also see last month's *Administrative Register of Kentucky*.

The administrative body shall notify the Compiler whether the hearing was held or cancelled and whether or not written comments were received. If comments were received during the public hearing or written comment period, the administrative body shall file a statement of consideration with the Compiler by the fifteenth day of the calendar month following the close of the public comment period. An agency may submit a one-time, one-month extension for filing a statement of consideration for an ordinary regulation.

Review Procedure

After the public hearing and public comment period processes are completed, the administrative regulation will be tentatively scheduled for review at the next meeting of the Administrative Regulation Review Subcommittee. After review by the subcommittee, the regulation shall be referred by the Legislative Research Commission to an appropriate jurisdictional committee for a second review. If a quorum is present, unless the regulation is deferred or found deficient, an ordinary regulation shall be considered in effect upon adjournment of the appropriate jurisdictional committee or upon expiration of the review period, whichever occurs first.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

Education and Labor Cabinet
Department of Workforce Development
Office of Unemployment Insurance
(Amendment)

787 KAR 1:370. Professional Employer Organization Contribution and Reporting Requirements[~~Organizations~~].

RELATES TO: KRS 336.232
STATUTORY AUTHORITY: KRS 336.248, 341.115
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations for the proper administration of KRS Chapter 341. KRS 336.248 requires professional employer organizations to make certain reports and contributions to the unemployment insurance fund. This administrative regulation provides the procedures to file client unemployment insurance wage and premium reports, the procedures to complete the "Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account" form, the procedures to add or delete clients, the treatment of experience history transfers, and the application[~~effect~~] of successorship provisions under KRS Chapter 341, and the procedures to change the professional employer organization's contribution election.

Section 1. Definitions
(1) "Benefit experience history" means the benefit charges and other experience rating data maintained for a client employer under KRS Chapter 341 that are used to determine the employer's contribution rate.
(2)[~~(1)~~] "Client" is defined by KRS 336.232(1).
[~~(2)~~] [~~"Covered employee" is defined by KRS 336.232(4).~~]
(3) "Election" means the selection made by a PEO pursuant to KRS 336.248(1) regarding the reporting and payment of unemployment insurance contributions.
(4) "Professional employer agreement" means an agreement as defined in KRS 336.236.
(5)[~~(3)~~] "Professional employer organization" or "PEO" is defined by KRS 336.232(8).

Section 2. Professional Employer Organization reporting requirements and election of contribution
(1) A professional employer organization ("PEO") shall submit its initial election to report and pay unemployment insurance contributions pursuant to KRS 336.248(1) on the application provided in subsection (4). The Office shall apply the PEO's election to all clients covered under the PEO agreement as of the effective date of the election.
(2) The PEO shall keep separate records for each client and submit separate state unemployment insurance wage and premium reports to the Office of Unemployment Insurance (OUI) using the Unemployment Insurance Self-Service Web Portal located at https://kewes.ky.gov.[~~,~~]The PEO shall submit all required unemployment contribution payments associated with those reports in a timely manner. Wage and premium reports shall be filed[~~with payments to report the covered employees of each client by~~] using the client's state employer account number[~~as provided for in subsection (2)~~] and using the:
(a) Assigned tax rate of the PEO, per KRS 336.248 (1)(a); or
(b) Assigned tax rate of the client, per KRS 336.248(1)(b).
(3) If a PEO elects the client account method under KRS 336.248(1)(b):
(a) The PEO shall file unemployment insurance reports and pay contributions on a client-by-client basis; and
(b) The client's benefit experience history, as defined in Section 1(3) of this regulation, shall be transferred by the Office to the account assigned to that client as co-employer, as required by KRS 336.248(1)(b)(3)(b).
(4)[~~(2)~~]
(a) A[~~For each~~] PEO having one (1) or more covered employees with a client in this state[~~, the PEO~~] shall file an electronic application titled, UI-1P, "Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account", incorporated in 787 KAR 1:010, using the Unemployment Insurance Self-Service Web Portal located at https://kewes.ky.gov.
(b) To apply for an account number, the application shall include:
1. The federal identification number of the professional employer organization, along with the name, address, and phone number of the professional employer organization;
2. The name, physical address, and phone number of each client in a format as prescribed by the Office of Unemployment Insurance;
3. The name of the client's owner, partners, corporate officers, limited liability company members, and managers, if board managed, or general partners;
4. The federal identification number of the client;
5. A brief description of the client's major business activity; and
6. Any other information required by the Office of Unemployment Insurance.
(c) The PEO shall notify the Office of Unemployment Insurance (OUI) in writing of any additions or deletions of clients during the quarter in which a change occurs. Written notifications shall be submitted to the OUI via the methods listed at https://kewes.ky.gov.
(d) In cases where the PEO has not been subject to the provisions set forth in KRS 336.248, the PEO[~~professional employer organization~~] shall not be assigned the new employer[~~ premium~~] rate for a[~~based upon the reserve ratio of the PEO's industrial classification.~~] client that has benefit experience history as defined in Section 1 of this regulation. The contribution rate for each client shall be based on that client's experience in accordance with KRS Chapter 341.

Section 3. Effect of successorship.
(1) The transfer of benefit experience history required under KRS 336.248(1)(b)(3)(b) shall occur without regard to[~~A PEO shall not be considered a successor employer to any client and shall not acquire the experience history of any client with whom there is not any~~] common ownership, management or control. The client, upon terminating its relationship with the PEO, shall retain its own reserve account and shall not acquire any portion of the[~~not be considered a successor employer to the PEO and shall not acquire any portion of the experience history of the aggregate~~] reserve account of the PEO unless otherwise required under KRS Chapter 341[~~with whom there is not any common ownership, management, or control. For purposes of this regulation, the existence of a professional employer agreement, without other evidence of common control, shall not constitute common ownership, management, or control~~].
(2) The provisions of KRS 341.540 regarding successor employers shall not apply to a PEO or a client employer based solely on the existence of a professional employer agreement.

Section 4. Change of contribution election. KRS 336.248(5) permits a PEO to change its contribution election under KRS 336.248 (1)(a) or KRS 336.248(1)(b) only once. The change of contribution election shall be submitted in writing via the methods listed at https://kewes.ky.gov. Any changes to the initial election are effective in the calendar year following the date the Office approves the change in accordance with KRS 336.248(5).

JAMIE LINK, Secretary
APPROVED BY AGENCY: December 15, 2025
FILED WITH LRC: December 15, 2025 at 11:57 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 24, 2026, at 9:00am, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Haley Presley, Deputy Executive Director, Office of Unemployment Insurance, 500 Mero Street, Third Floor, Frankfort, KY 40601, 502-782-3132, haleys.presley@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Haley Presley
Subject Headings: Unemployment, Workforce Development, Insurance
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes contribution-rate assignment rules and reporting requirements for Professional Employer Organizations (PEOs) and their client employers for purposes of unemployment insurance (UI) taxation.
(b) The necessity of this administrative regulation: KRS 336.248 and KRS 341.115 require the Education and Labor Cabinet to promulgate regulations governing contribution reporting, PEO elections, and UI rate assignment.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides instructions for calculating UI contribution rates for PEOs and client employers.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: PEOs and client employers will have clear and consistent instructions for reporting wages and contributions, ensuring accurate and uniform application of UI tax requirements.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment clarifies that benefit-experience history must transfer when a PEO elects client-level reporting, adds definitions and instructions necessary for accurate rate assignment.
(b) The necessity of the amendment to this administrative regulation: Amendment is necessary to prevent inconsistent rate assignment and ensure that the statute is applied as written.
(c) How the amendment conforms to the content of the authorizing statutes: This regulation conforms to the authorizing statute by setting forth the requirements for PEOs and the calculation of contribution rates.
(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies rate-assignment rules and aligns regulatory text with statutory mandates, thereby ensuring predictable, uniform, and legally compliant administration of UI contribution rates for PEOs and client employers.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 40 licensed PEOs are operating in Kentucky with their associated client employers.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: PEOs electing client-level reporting must follow clarified reporting procedures and ensure accurate transmission of wage and employment data. No new substantive obligations are imposed beyond statutory requirements.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no new costs to any person or entity anticipated. This amendment reduces administrative uncertainty and does not impose new reporting burdens.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): PEOs and employers will benefit from clearer rules, improved predictability of contribution-rate calculations, and consistent application of statutory provisions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: OUI will incur costs associated with changing the software which operates the program.
(b) On a continuing basis: No additional costs.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Existing funding within OUI, including federal administrative grants.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this amendment to the existing administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all affected entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 336.248; KRS 336.232; KRS 341.115; KRS 341.540; KRS Chapter 341.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This act is authorized by KRS 13B.170, KRS 336.248, 341.115.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Unemployment Insurance is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: OUI anticipates system-modification costs related to programming changes in the new UI tax system scheduled for implementation next year. The exact cost will depend on vendor pricing and the scope of required changes.
For subsequent years: No recurring costs are anticipated after system modifications are complete.
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None

For subsequent years: None
3. Cost Savings:
For the first year: None.
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Professional Employer Organizations (PEOs) and their client employers.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Depending on the software modification cost, the change may have a major economic impact in the first year on the agency. However, the agency will not need an increase in funds to pay for it.

EMERGENCY ADMINISTRATIVE REGULATIONS

NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. Other statutes or legislation may affect a regulation's actual end date.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

STATEMENT OF EMERGENCY
201 KAR 5:020E.

Pursuant to KRS 13A.190(1)(a)1., this emergency administrative regulation is being promulgated to meet an imminent threat to public health, safety, and welfare. This emergency administrative regulation is necessary in response to the October 1, 2025 Opinion of the Attorney General (OAG 25-13). The Board of Optometric Examiners implemented licensing examination waivers or accepted alternative testing measures for individuals who graduated from optometry schools between 2020-2023 because of the state of emergency in the Commonwealth regarding COVID-19. In its opinion, the Office of the Attorney General found that the Board of Examiners improperly modified the licensing requirements via internal order and not via the administrative regulation process. This emergency administrative regulation provides how the Board of Optometric Examiners will review the licensure requirements of the impacted licensees to ensure all licensees have met the licensure requirements as established in 201 KAR 5:010 and this regulation. This emergency administrative regulation will not be replaced by an ordinary administrative regulation because this emergency regulation seeks to remedy actions taken in the past that will not continue in the future.

ANDY BESHEAR, Governor of Kentucky
CHRISTI LEMAY, Executive Director

GENERAL GOVERNMENT CABINET
Kentucky Board of Optometric Examiners
(New Emergency Administrative Regulation)

201 KAR 5:020E. Review of Licensure Requirements.

EFFECTIVE: December 31, 2025
RELATES TO: KRS 320.220, 320.250, 320.280
STATUTORY AUTHORITY: KRS 320.240
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.240(4) requires the Board of Optometric Examiners to promulgate administrative regulations for the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists. This emergency regulation is necessary to address the directive for the Board of Optometric Examiners to review certain licensures per the Opinion of the Attorney General, OAG 25-13.

Section 1. For all initial licenses approved by the Board for individuals who graduated optometry school between 2020-2023, the following credentials must be in possession of the Board prior to license renewal for 2027:
(1) National Board of Examiners in Optometry (NBEO) Part 1 results or Optometry Examining Board of Canada (OEBC) Part 1 results;
(2) NBEO Part 2 and TMOD results; and
(3) NBEO Part 3 results or results of the Kentucky Clinical Competency Test.

Section 2. The Kentucky Clinical Competency Test shall be developed and utilized for this limited purpose and specific review of licenses.

Section 3. Any licensee without these credentials will be notified by the Board in writing and is eligible to submit the results above by December 31, 2026.

Section 4. The Board shall provide written notice to the Office of the Attorney General when the credentialing review is complete.
APPROVED BY AGENCY: December 31, 2025
FILED WITH LRC: December 31, 2025 at 3:53 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 27, 2026, at 1:00 p.m. EST, at 100 Consumer Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Christi LeMay, Executive Director, 100 Consumer Lane, Frankfort, Kentucky 40601, (502) 234-2114, christi.lemay@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Christi LeMay
Subject Headings: Occupations and Professions, Licensing, Optometry
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation will ensure all licensees have met the licensure requirements pursuant to KRS 320.240 and 320.250 per the direction in OAG 25-13.
(b) The necessity of this administrative regulation: This emergency regulation is necessary to ensure all licensees have met the licensure requirements pursuant to KRS 320.240 and 320.250 per the direction in OAG 25-13.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 320.240 and 320.250 authorizes the Board to determine license requirements.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment will ensure all licensees have met the licensure requirements pursuant to KRS 320.240 and 320.250 per the direction in OAG 25-13.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: N/A
(b) The necessity of the amendment to this administrative regulation: N/A
(c) How the amendment conforms to the content of the authorizing statutes: N/A
(d) How the amendment will assist in the effective administration of the statutes: N/A
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect individuals who graduated from optometry schools between 2020-2023 and were licensed due to implemented examination waivers or board accepted alternative testing measures.
(5) Provide an analysis of how the entities identified in question (4)

will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Those affected will need to take and pass the examinations identified in 201 KAR 5:010 and this regulation to meet the requirements needed for licensure.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): This regulation does not incur a cost more than the established cost of accepted forms of examination.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): This regulation will ensure all licensees have met licensure requirements set forth in KRS 320.240 and 320.250.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: $1,000
(b) On a continuing basis: $0
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Agency restricted funds
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be no increase in fees necessary.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? No tiering is not applicable to this issue we are addressing.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 218A.205(3)(g), 320.220, 320.240, 320.250, 320.270, 320.280
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: N/A
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Optometric Examiners
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: $1,000
For subsequent years: $0
2. Revenues:
For the first year: $0
For subsequent years: $0
3. Cost Savings:
For the first year: $0
For subsequent years: $0
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): This will not impact any local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: The agency will incur costs to administer and proctor the Kentucky Clinical Competency Test identified in the regulation.
(b) Methodology and resources used to reach this conclusion:
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This regulation will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: The incurred costs do not meet or exceed the definition of major economic impact in KRS 13A.010(14).

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

STATEMENT OF EMERGENCY
781 KAR 1:001E.

This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a) and is necessary to address an imminent threat to public welfare, ensure continued compliance with federal vocational rehabilitation requirements, and implement the mandates of SB 103 RS 25. The Office of Vocational Rehabilitation (OVR) is currently operating under an Order of Selection (OOS) because available resources are insufficient to serve all eligible individuals with disabilities. Under the existing regulatory framework, OVR cannot correctly assign priority categories or administer OOS in a manner consistent with 34 C.F.R. §§ 361.36, 361.41, and 361.42. As a result, individuals with the most significant disabilities are being placed on waitlists under outdated and noncompliant criteria. Immediate regulatory correction is required to avoid continued improper prioritization and further delay in service delivery. Immediate action is also required to prevent jeopardizing federal funding for the OVR program. Continued administration of an unlawful OOS constitutes federal noncompliance and poses a direct risk to Kentucky's ability to draw federal vocational rehabilitation funds. This creates an imminent threat to public welfare, as OVR is currently unable to serve new eligible individuals and cannot release any of the approximately 3,000 individuals now waiting for services until the regulations are corrected. In addition, SB 103 RS 25 amended KRS 151B.195 to require OVR to promulgate administrative regulations that established a preference for in-state services and set forth its policy and procedure used to establish service fees. Ordinary administrative regulation procedures are inadequate to prevent this harm, because the delay inherent in the ordinary process would prolong improper administration of the OOS and extend service denials for individuals with the most significant disabilities. Therefore, this emergency regulation is necessary to establish the legally required framework for OVR to comply with federal and state law and to protect public welfare.
This emergency regulation will be replaced by an ordinary administrative regulation because it is necessary for agency operations and to ensure the agency's policies are more transparent. The companion ordinary administrative regulation is identical to this emergency regulation.

ANDY BESHEAR, Governor
VICKIE WISE, Deputy Secretary

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(New Emergency Administrative Regulation)

781 KAR 1:001E. Definitions.

EFFECTIVE: December 31, 2025
RELATES TO: KRS 151B.185, 151B.190, 151B.195, 151B.200, 34 C.F.R. Part 361, 29 U.S.C. 721, 722, 723
STATUTORY AUTHORITY: KRS 151B.185, 151B.195(1), 151B.200
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate regulations governing the services and administration of the State Vocational Rehabilitation Agency. KRS 151B.200 authorizes the office to comply with federal acts relating to vocational rehabilitation when these acts apply to joint state and federally funded vocational rehabilitation programs. KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing services, personnel, and administration of the State Vocational Rehabilitation Agency. This administrative regulation establishes the definitions needed for the provision of rehabilitation services.

Section 1. Definitions.
(1) "Acute or emergency medical conditions" are accidents or illnesses with sudden onset and relatively short course.
(2) "Administrative hearing" is defined by KRS 13B.010(2).
(3) "Administrative review" means an informal process through which office personnel not involved in the initial office decision conduct a review of an office decision to ensure the decision complies with office policy.
(4) "Assistive technology specialist" means an individual who analyzes the needs of individuals with disabilities, assists in the selection of the appropriate assistive technology, and trains the eligible individual on how to properly use the specific equipment.
(5) "Attendant Factors" are factors not directly resulting from a disability that affect the individual's ability to obtain, maintain, or progress in employment.
(6) "Case record" means the official written or electronic record of the vocational rehabilitation case of an applicant, potentially eligible, or eligible individual.
(7) "Certified driver rehabilitation specialist" means a driver rehabilitation specialist who has obtained certification to provide services from the Association for Driver Rehabilitation Specialists.
(8) "Clear and convincing evidence" means a firm belief that a factual contention is highly probable.
(9) "Comparable services and benefits" is defined in 34 C.F.R. 361.5(c)(8).
(10) "Comprehensive Transition and Postsecondary Program" (CTP) means a program designated by the United States Department of Education under 34 C.F.R. 668.231(a).
(11) "Competitive integrated employment" is defined by 34 C.F.R. 361.5(c)(9).
(12) "Content tutoring" means instruction to improve performance in a specific course or subject when the academic difficulty is not caused by a disability.
(13) "Disability-related tutoring" means tutoring, instruction, or programs specifically designed to address academic limitations that result from a disability and that are necessary for the individual to benefit from training or to achieve the employment outcome.
(14) "Driver evaluation" means a clinical and behind-the-wheel evaluation by a certified driver rehabilitation specialist to identify an eligible individual's driver rehabilitation needs to allow that person to drive independently.
(15) "Driver training" means behind-the-wheel instruction required to teach an individual with a disability to drive with or without vehicle modifications.
(16) "Educational assistance services" means reader services, note-taking assistance, page turning, typing, recording, securing reference materials, or similar support necessary for the individual to participate in training or education programs.
(17) "Educational aide" means an approved vendor who provides educational assistance services under this section.
(18) "Electronic communication" includes, but is not limited to email, fax, and Short Message Service, and text messaging.
(19) "Eligible individual" is defined by 34 C.F.R. 361.5(c)(14).
(20) "Employment outcome" is defined by 34 C.F.R. 361.5(c)(15).
(21) "Executive director" means the Executive Director of the Office of Vocational Rehabilitation.
(22) "Extended driver evaluation" means additional evaluation necessary in those cases in which an individual's ability to drive cannot be determined after a driver evaluation.
(23) "Family member" is defined by 34 C.F.R. 361.5(c)(22).
(24) "Financial participation" means the amount the eligible individual must pay for cost sharing between the office and the eligible individual for an authorized good or service.
(25) "Functional capacity" means the capacity to perform tasks required in employment including:
(a) Mobility;
(b) Communication;
(c) Self-care;
(d) Self-direction;
(e) Interpersonal skills;
(f) Work tolerance; or
(g) Work skills.
(26) "Hearing officer" is defined by KRS 13B.010(5).
(27) "Household size" is calculated using the individual's most recent federal income tax return, and means:
(a) If the individual is not claimed as a tax dependent for purposes of filing federal taxes, the individual, the individual's spouse, if legally married, and the individual's tax dependents; or
(b) If the individual is claimed as a dependent for purposes of filing federal taxes, the individual, any persons claiming the individual as a dependent, and any other dependents the tax filer claims.
(28) "Individual" is a disabled person who is applying, potentially eligible, or eligible for vocational rehabilitation services in Kentucky.
(29) "Individual with a disability" is defined by 34 C.F.R. 361.5(c)(27) and 34 C.F.R. 361.5(c)(28).
(30) "Individual with a most significant disability" is defined in 34 C.F.R. 361.5(c)(29).
(31) "Individual with a significant disability" is defined in 34 C.F.R. 361.5(c)(30).
(32) "Individualized plan for employment" means a written plan for a specific employment outcome as required by 34 C.F.R. 361.46.
(33) "Informed choice" means the applicant, potentially eligible individual, and eligible individual's right to receive information and support that allows them to make informed decisions about their case throughout the vocational rehabilitation process including but not limited to the choice of service provider as set forth in 34 C.F.R. 361.52.
(34) "In state service" means a vocational rehabilitation service that is provided in Kentucky.
(35) "Mediation" is defined by 34 C.F.R. 361.5(c)(35).
(36) "Non-significant disability" means a disability that does not limit a functional capacity.
(37) "Office" means the Office of Vocational Rehabilitation and its staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.
(38) "Personal assistance services" is defined by 34 C.F.R. 361.5(c)(38).
(39) "Physical or mental impairment" is defined by 34 C.F.R. 361.5(c)(40).
(40) "Pre-employment transition services (Pre-ETS)" means the set of early career exploration services identified in 34 C.F.R. 361.48(a)(2).
(41) "Post-employment services" is defined by 34 C.F.R. 361.5(c)(41).

(42) "Post-secondary education" means academic or vocational training provided by an accredited post-secondary institution, including universities, colleges, community and technical colleges, and proprietary schools which leads to an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the Commonwealth of Kentucky or federal government, or an associate or baccalaureate degree.

(43) "Post-Secondary Transition Program" (PSTP) means a two (2) or three (3) year work-readiness and employment-skills training program operated by a post-secondary institution that is a CTP.

(44) "Potentially eligible student" means a student with a disability between the ages of 14 and 21 who has not applied for or been determined eligible for vocational rehabilitation services.

(45) "Remediation" means instruction intended to address basic educational deficiencies not caused by the individual's disability.

(46) "Secretary" means the Secretary of the Education and Labor Cabinet.

(47) "Serious limitation" means the individual frequently requires assistance from others, personal adaptations, assistive technology and/or accommodations not typically needed for other workers to participate in employment.

(48) "Service fee" means the standard rate of pay established by the office for vocational rehabilitation services and goods.

(49) "Service Fee Memorandum" means the document used to communicate the service fees to vendors.

(50) "Structural addition" means any improvement to real property that would increase the square footage or footprint of the property.

(51) "Student with a disability" means an individual who is 14-21 years of age and is eligible for and receiving special education or related services under the Individuals with Disabilities Education Act or is an individual with a disability for purposes of Section 504 of the Rehabilitation Act.

(52) "Substantial impediment to employment" is defined by 34 C.F.R. 361.5(c)(52).

(53) "Tutorial services" means individualized instruction provided to improve academic performance or address disability-related barriers to participation in a training or educational program.

(54) "Vendor" means a person or entity:

(a) The office has determined meets the service provider standards established by the office and has executed a vendor agreement with the office, or

(b) From which the office has agreed to purchase goods or services.

(55) "Vocational rehabilitation services" is defined by 34 C.F.R. 361.5(c)(57).

VICKIE WISE, Deputy Secretary

APPROVED BY AGENCY: December 30, 2025

FILED WITH LRC: December 31, 2025 at 12:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 26, 2026, at 1:00 pm, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, Kentucky 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brooke McDaniel

Subject Headings: Disability and Disabilities, Workforce Development, Education

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the definitions for the operation of the Office of Vocational Rehabilitation (OVR) in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq.

(b) The necessity of this administrative regulation: KRS 151B.195 requires OVR to promulgate administrative regulations outlining the administration of vocational rehabilitation services in Kentucky in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides the required definitions for the regulations which outline the operation of OVR.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists individuals seeking services from OVR in understanding the regulations governing the operation of the office.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new regulation which takes the definitions from the other regulations and puts them in one place for consistency and ease of reference.

(b) The necessity of the amendment to this administrative regulation: See above. (c) How the amendment conforms to the content of the authorizing statute: This regulation conforms to the authorizing statutes by providing the definitions needed.

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

(d) How the amendment will assist in the effective administration of the statutes: This amendment makes the definitions easier to find and more understandable.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No person or entity is required to take action as a result of this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no new costs to any person or entity.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated individuals will have a better understanding of the other regulations.

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

(a) Initially: No additional costs.

(b) On a continuing basis: No additional costs.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds received by the Office of Vocational Rehabilitation and the required state match funds; however, there are no additional costs as a result of this proposed amendment.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this amendment to the existing administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(10) TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all affected entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: 29 U.S.C. § 721-723; 34 C.F.R. Part 361; KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This act is authorized by KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a) Not applicable.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

STATEMENT OF EMERGENCY
781 KAR 1:010E.

This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a) and is necessary to address an imminent threat to public welfare, ensure continued compliance with federal vocational rehabilitation requirements, and implement the mandates of SB 103 RS 25. The Office of Vocational Rehabilitation (OVR) is currently operating under an Order of Selection (OOS) because available resources are insufficient to serve all eligible individuals with disabilities. Under the existing regulatory framework, OVR cannot correctly assign priority categories or administer OOS in a manner consistent with 34 C.F.R. §§ 361.36, 361.41, and 361.42. As a result, individuals with the most significant disabilities are being placed on waitlists under outdated and noncompliant criteria. Immediate regulatory correction is required to avoid continued improper prioritization and further delay in service delivery. Immediate action is also required to prevent jeopardizing federal funding for the OVR program. Continued administration of an unlawful OOS constitutes federal noncompliance and poses a direct risk to Kentucky's ability to draw federal vocational rehabilitation funds. This creates an imminent threat to public welfare, as OVR is currently unable to serve new eligible individuals and cannot release any of the approximately 3,000 individuals now waiting for services until the regulations are corrected. In addition, SB 103 RS 25 amended KRS 151B.195 to require OVR to promulgate administrative regulations that established a preference for in-state services and set forth its policy and procedure used to establish service fees. Ordinary administrative regulation procedures are inadequate to prevent this harm, because the delay inherent in the ordinary process would prolong improper administration of the OOS and extend service denials for individuals with the most significant disabilities. Therefore, this emergency regulation is necessary to establish the legally required framework for OVR to comply with federal and state law and to protect public welfare.
This emergency regulation will be replaced by an ordinary administrative regulation because it is necessary for agency operations and to ensure the agency's policies are more transparent. The companion ordinary administrative regulation is identical to this emergency regulation.

ANDY BESHEAR, Governor
VICKIE WISE, Deputy Secretary

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(Emergency Amendment)

781 KAR 1:010E. Office of Vocational Rehabilitation appeal procedures.

EFFECTIVE: December 31, 2025
RELATES TO: KRS 151B.190, 151B.200, 34 C.F.R. Part 361, 29 U.S.C. 722
STATUTORY AUTHORITY: KRS 13B.170, 151B.195(1), 29 U.S.C. 722(c)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 13B.170 authorizes an agency to promulgate administrative regulations that are necessary to carry out the provisions of KRS Chapter 13B concerning administrative hearings. 29 U.S.C. 722(c) requires state procedures for the review of determinations made by rehabilitation personnel for basic rehabilitation services. Pursuant to KRS 151B.200, the Commonwealth of Kentucky, agreed to comply with all provisions relating to Federal Vocational Rehabilitation Acts. KRS

151B.195(1) authorizes the commissioner to promulgate administrative regulations for the department. This administrative regulation establishes hearing and appeal procedures for a person seeking vocational rehabilitation benefits.

Section 1. [~~Definitions.~~]

[~~(1)~~] [~~"Administrative hearing" is defined by KRS 13B.010(2).~~]

[~~(2)~~] [~~"Administrative review" means an informal process through which office personnel not involved in the initial decision conduct a review of an office decision to ensure the decision complies with office policy.~~]

[~~(3)~~] [~~"Appellant" means an applicant, potentially eligible, or eligible individual who requests an appeal of an office decision in accordance with this section.~~]

[~~(4)~~] [~~"Applicant" means an individual who submits an application for vocational rehabilitation services.~~]

[~~(5)~~] [~~"Branch manager" means the office staff who is responsible for the operations of an office branch.~~]

[~~(6)~~] [~~"Case record" means the official written or electronic record of the vocational rehabilitation case of an applicant, potentially eligible, or eligible individual.~~]

[~~(7)~~] [~~"Competitive integrated employment" is defined by 34 C.F.R. 361.5(c)(9).~~]

[~~(8)~~] [~~"Eligible individual" means an applicant for vocational rehabilitation services who the office determines is an individual with a disability who requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.~~]

[~~(9)~~] [~~"Executive director" means the Executive Director of the Office of Vocational Rehabilitation.~~]

[~~(10)~~] [~~"Hearing officer" is an individual who meets the qualifications established in KRS 13B.010(7) and who has knowledge of the laws applicable to the office.~~]

[~~(11)~~] [~~"Office" means the Office of Vocational Rehabilitation.~~]

[~~(12)~~] [~~"Office Appeal Form" means the office form incorporated by referenced and used by an applicant, potentially eligible, or eligible individual to request an appeal of an office decision.~~]

[~~(13)~~] [~~"Potentially eligible individual" means an individual who might be eligible for vocational rehabilitation services, but whose eligibility has not yet been determined.~~]

[~~(14)~~] [~~"Secretary" means the Secretary of the Education and Labor Cabinet.~~]

[~~Section 2.~~] Right to Appeal.

(1) The office shall notify every[~~, applicant, potentially eligible individual, or eligible~~] individual in writing:

(a) That they have[~~that the individual has~~] the right to appeal any determination made by the office that affects the provision, denial, reduction, suspension, or cessation of that individual's vocational rehabilitation services;[~~.~~]

(b) That they have the right to pursue mediation, which shall be conducted by a qualified mediator selected in accordance with 34 C.F.R. 361.57(d);

(c) The names and addresses of individuals with whom requests for mediation or hearings may be filed;

(d) That an impartial hearing officer shall be selected in accordance with 34 C.F.R. 361.57(e); and

(e) The availability of the client assistance program.

(2) This notice shall be provided:

(a) At the time an individual applies for vocational rehabilitation services;

(b) At the time the individual is assigned to a priority category in order of selection;

(c) At the time the individualized plan of employment is developed or amended; and

(d) Whenever vocations rehabilitation services for an individual are reduced, suspended, or terminated.[~~The office shall provide to every applicant, potentially eligible individual, or eligible individual:~~]

[~~(a)~~] [~~As established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, the procedure for requesting an appeal, including the name and address of office staff to whom a request for appeal shall be submitted; and~~]

[~~(b)~~] [~~The Office Appeal Form.~~]

(3) A request for appeal shall be [~~submitted using the Office Appeal Form and shall be~~]submitted to the office within fourteen (14) days of receipt of written notice of an office decision[~~, or receipt of verbal notice of an office decision, as determined by the date in the case record~~]. A timely request for appeal may be submitted via US Mail, email or telephonically.

(4) As required by 34 C.F.R. 370.3, an individual[~~An appellant~~] shall have the right to be represented by an advocate or attorney at all appellate proceedings, and the individual[~~appellant~~] shall bear all cost for representation.

(5) Upon receipt of an appeal[~~a request for an administrative hearing~~], the office shall:

(a) Conduct an informal administrative review of the decision on appeal:[~~prior to the administrative hearing; and~~]

(b) Offer the individual an opportunity to participate in mediation if the individual disagrees with the findings of the informal administrative review; and

(c)[~~(b)~~] If the matter is not resolved through the administrative review or mediation, convene[~~Convene~~] an administrative hearing within sixty (60) days, except that an[~~a time~~]extension, not to exceed one (1) year, shall be granted upon agreement by both parties.

(6) During an appeal, the office shall not suspend, reduce, or terminate services provided under the individualized plan for employment unless:

(a) It has evidence that the service was obtained through:

1. Misrepresentation;
2. Fraud;
3. Collusion; or
4. Criminal conduct; or

(b) The individual[~~appellant~~] requests the action.

Section 2.[~~Section 3.~~] Informal Administrative Review.

(1) Upon receipt of an appeal[~~a notice of appeal, the office shall conduct an informal administrative review of the decision.~~]

[~~(2)~~] [~~The director or designee shall select~~] a branch manager not involved in the decision[~~action~~] in question [~~who~~]shall conduct the administrative review of the decision within ten (10) days.

(2)[~~(3)~~] The administrative review shall be conducted either in person or by teleconference, and the individual[~~appellant~~] shall be invited to participate.

(3)[~~(4)~~] A written determination shall be sent to the individual[~~The branch manager shall issue a written a determination~~] within five (5) business days [~~and notify the appellant~~]via electronic mail or U.S. Mail.

Section 3.[~~Section 4.~~] Mediation.

(1) The individual[~~appellant~~] shall have the right to participate in mediation before an administrative hearing is convened.

(2) [~~The office shall maintain a list of qualified mediators.~~]

[~~(3)~~] If mediation is requested, the office shall:

(a) Schedule[~~Choose a mediator from the list and schedule~~] the mediation for a date prior to an administrative hearing;

(b) Convene the mediation in a location convenient to the office and the individual, if in person, or virtually,[~~appellant~~] and provide reasonable accommodations if requested;

(c) Bear the cost of mediation; and

(d) Send a representative of the office to the mediation who is authorized to bind the office to an agreement.

(3)[~~(4)~~] The individual[~~appellant~~] shall attend the mediation.

(4)[~~(5)~~] Discussions or agreements arising from the mediation shall be confidential and shall not be used as evidence in any subsequent administrative hearing or civil proceeding.

(5)[~~(6)~~] An agreement reached by the parties through mediation shall be documented in writing and[~~,~~] signed by both parties[~~prior to the conclusion of the mediation, and a copy shall be issued to both parties~~].

(6) Mediation is voluntary and shall not be used to delay the scheduling of an impartial hearing.

Section 4.[~~Section 5.~~] Administrative Hearing. If the individual is not satisfied with the outcome of the informal administrative review process, did not choose to participate in mediation or if the mediation was unsuccessful, the[~~The~~] office shall conduct an administrative

hearing in accordance with KRS Chapter 13B.[and Section 2 of this administrative regulation if the appellant elects not to participate in mediation or if the mediation did not result in an agreement.]

[Section 6.] [Client Assistance Program. The office shall advise an applicant, potentially eligible individual, or eligible individual of:]
[(1)] [The existence of the Client Assistance Program;]
[(2)] [The services provided by the program; and]
[(3)] [How to contact a program representative.]

[Section 7.] [Findings and Decision.]
[(1)] [The hearing officer shall issue a recommended order in accordance with KRS 13B.110.]
[(2)] [Either party shall have the right to submit exceptions to the recommended order to the secretary as established in KRS 13B.110.]
[(3)] [The secretary or designee shall issue the final order in accordance with KRS 13B.120.]

[Section 8.] [Incorporation by Reference.]
[(1)] ["Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual", June 2022, is incorporated by reference.]
[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Vocational Rehabilitation, 500 Mero Street 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]
[(3)] [This material is also available at kcc.ky.gov/vocational-rehabilitation.]

VICKIE WISE, Deputy Secretary
APPROVED BY AGENCY: December 30, 2025
FILED WITH LRC: December 31, 2025 at 12:10 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 26, 2026 at 1:00 pm, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, Kentucky 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brooke McDaniel
Subject Headings: Administrative Hearings, Disability and Disabilities, Workforce Development
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements for the Office of Vocational Rehabilitation's mediation and administrative hearing process as required by 29 U.S.C. § 722 and KRS 13B.
(b) The necessity of this administrative regulation: Changes to the regulation are needed to ensure individuals who apply for and receive vocational rehabilitation services understand their right to appeal a decision made by the Office and the administrative appeal process required to comply with 29 U.S.C. §722 and KRS 13B.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides information necessary for the Office of Vocational Rehabilitation to provide mediation and impartial due process rights as required by 29 U.S.C. § 722 and KRS 13B.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides information necessary for the Office of Vocational Rehabilitation to provide mediation and impartial due process rights as required by 29 U.S.C. § 722 and KRS 13B.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The proposed amendments are made to provide a better understanding to individuals who apply for and receive vocational rehabilitation services about their due process rights as set forth in 29 U.S.C. § 722 and KRS 13B.
(b) The necessity of the amendment to this administrative regulation: Changes to the regulation are needed to ensure individuals who apply for and receive vocational rehabilitation services understand their right to appeal a decision made by the Office of Vocational Rehabilitation and the administrative appeal process required to comply with 29 U.S.C. § 722 This administrative regulation provides information necessary for the Office of Vocational Rehabilitation to provide mediation and impartial due process rights as required by 29 U.S.C. § 722 and KRS 13B. (c) How the amendment conforms to the content of the authorizing statute: This amendment conforms to the authorizing statute by outlining the requirements for the mediation and administrative hearing process required by 29 U.S.C. § 722 and KRS 13B.
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes: This amendment provides specific information to individuals who apply for and receive vocational rehabilitation services about their federally guaranteed due process rights and the procedures used by the Office of Vocational Rehabilitation to ensure compliance with the due process requirements of 29 U.S.C. § 722 and KRS 13B.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No person or entity is required to take action as a result of this amendment.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There is no cost associated with this proposed amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated individuals will have a better understanding of their due process rights under state and federal law.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The proposed amendment does not result in additional costs.
(b) On a continuing basis: The proposed amendment does not result in additional costs.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds received by the Office of Vocational Rehabilitation and the required state match funds; however, there are no additional costs as a result of this proposed amendment.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this

proposed amendment.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This proposed amendment does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all individuals who appeal a decision made by the Office of Vocational Rehabilitation.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: 29 U.S.C. § 722, KRS 13B.170 and KRS 151B.195(1).
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 13B.170 and KRS 151B.195(1).
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a): Not applicable.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

STATEMENT OF EMERGENCY
781 KAR 1:020E.

This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a) and is necessary to address an imminent threat to public welfare, ensure continued compliance with federal vocational rehabilitation requirements, and implement the mandates of SB 103 RS 25. The Office of Vocational Rehabilitation (OVR) is currently operating under an Order of Selection (OOS) because available resources are insufficient to serve all eligible individuals with disabilities. Under the existing regulatory framework, OVR cannot correctly assign priority categories or administer OOS in a manner consistent with 34 C.F.R. §§ 361.36, 361.41, and 361.42. As a result, individuals with the most significant disabilities are being placed on waitlists under outdated and noncompliant criteria. Immediate regulatory correction is required to avoid continued improper prioritization and further delay in service delivery. Immediate action is also required to prevent jeopardizing federal funding for the OVR program. Continued administration of an unlawful OOS constitutes federal noncompliance and poses a direct risk to Kentucky's ability to draw federal vocational rehabilitation funds. This creates an imminent threat to public welfare, as OVR is currently unable to serve new eligible individuals and cannot release any of the approximately 3,000 individuals now waiting for services until the regulations are corrected. In addition, SB 103 RS 25 amended KRS 151B.195 to require OVR to promulgate administrative regulations that established a preference for in-state services and set forth its policy and procedure used to establish service fees. Ordinary administrative regulation procedures are inadequate to prevent this harm, because the delay inherent in the ordinary process would prolong improper administration of the OOS and extend service denials for individuals with the most significant disabilities. Therefore, this emergency regulation is necessary to establish the legally required framework for OVR to comply with federal and state law and to protect public welfare.
This emergency regulation will be replaced by an ordinary administrative regulation because it is necessary for agency operations and to ensure the agency's policies are more transparent. The companion ordinary administrative regulation is identical to this emergency regulation.

ANDY BESHEAR, Governor
VICKIE WISE, Deputy Secretary

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(Emergency Amendment)

781 KAR 1:020E. General provisions for operation of the Office of Vocational Rehabilitation.

EFFECTIVE: December 31, 2025
RELATES TO: KRS 138.170, 151B.185, 151B.190, 151B.195, 151B.200, 34 C.F.R. Part 361[~~361.42,~~][~~361.49~~], 29 U.S.C. 721, 722, 723
STATUTORY AUTHORITY: KRS 151B.185, 151B.195(1), 151B.200
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.200 authorizes the office to comply with federal acts relating to vocational rehabilitation when these acts apply to joint state and federally funded vocational rehabilitation programs. KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing services, personnel, and administration of the State Vocational

Rehabilitation Agency. This administrative regulation establishes general criteria for the provision of rehabilitation services and is necessary[~~in order~~] to distribute limited funds available for that purpose.

Section 1. Application.

(1) An individual shall be considered an applicant for vocational services when the individual:

(a) Submits a request for vocational rehabilitation services, including completion of an OVR-2, Application for Services, or other expression of intent to apply;

(b) Provides the basic information necessary to initiate an eligibility determination, consistent with 34 C.F.R. 361.41(b)(2); and

(c) Is available to participate in the assessment process required under 34 C.F.R. 361.41.

(2) The office shall make a reasonable effort to contact individuals referred for services and offer them the opportunity to apply.

(3) An application shall be dated as of the date the request for services is received by the office.

(4) Prior to determination of eligibility, the office may require verification of identity and of employment authorization sufficient to establish that the individual is legally permitted to work in the United States.

(a) If the individual cannot establish legal authorization to work, the office shall find the individual ineligible for services in accordance with this administrative regulation; and

(b) The office shall provide information and referral services to individuals who are ineligible on this basis, as required by federal law.

(5) The office may accept applications from individuals who reside outside of Kentucky if the individual is available to participate fully in the rehabilitation process, including assessment for eligibility and rehabilitation needs.

(6) Applications may be accepted from individuals who are incarcerated if the individual is reasonably expected to become available to participate in an eligibility determination and vocational rehabilitation services upon release.

(7) Electronic Communication. The office may communicate electronically with individuals, including by email or text message, if the individual has provided informed consent for that method of communication. The individual may revoke consent at any time. The individual's communication preferences shall be documented in the case record. If an individual changes their preferred email, they shall notify the office.

(8) The office shall provide each individual with information regarding program rights and responsibilities, including appeal procedures, consistent with 34 C.F.R. 361.38(b).

(9) If an individual has a guardian or legal representative, the individual shall inform the office and provide appropriate documentation. Any reference to individual in these regulations includes a guardian or legal representative, if applicable.

[~~Section 1.~~] [~~Definitions.~~]

[~~(1)~~] [~~"Applicant" means an individual who has signed a letter or document requesting vocational rehabilitation services and who is available to complete an assessment.~~]

[~~(2)~~] [~~"Eligible individual" means an individual with a disability who has been determined by the office to meet the basic conditions of eligibility for vocational rehabilitation services as defined in 34 C.F.R. 361.42.~~]

[~~(3)~~] [~~"Occupational equipment" means equipment essential to perform the job duties at the job site and required as a condition of employment.~~]

[~~(4)~~] [~~"Office" means the Office of Vocational Rehabilitation and its staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.~~]

[~~(5)~~] [~~"Relative" means an individual related to another individual by lineage, marriage, or adoption and includes a:~~]

[~~(a)~~] [~~Spouse;~~]

[~~(b)~~] [~~Parent;~~]

[~~(c)~~] [~~Grandparent;~~]

[~~(d)~~] [~~Brother;~~]

[~~(e)~~] [~~Sister;~~]

[~~(f)~~] [~~Son;~~]

[~~(g)~~] [~~Daughter;~~]

[~~(h)~~] [~~Grandchild;~~]

[~~(i)~~] [~~Aunt;~~]

[~~(j)~~] [~~Uncle;~~]

[~~(k)~~] [~~Niece;~~]

[~~(l)~~] [~~Nephew; and~~]

[~~(m)~~] [~~First cousin.~~]

Section 2. Eligibility.

(1) In accordance with 34 C.F.R. 361.42, an individual shall be eligible for vocational rehabilitation services if the office determines that:

(a) The individual has a physical or mental impairment that constitutes or results in a substantial impediment to employment;

(b) The individual requires rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;

(c) The individual can benefit in terms of an employment outcome; and

(d) The individual intends to achieve an employment outcome.

(2) An individual who meets the criteria in subsection (1)(a)-(c) of this Section and who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act shall be presumed eligible for vocational rehabilitation services and considered an individual with a significant disability, so long as the individual intends to achieve an employment outcome. This presumption of eligibility may be overcome only if the individual participates in a period of trial work, as provided in Section 3 of this administrative regulation, and upon clear and convincing evidence that the individual cannot benefit from vocational rehabilitation services in terms of an employment outcome. Because eligibility can generally be determined based solely on verification of benefits, the office shall determine eligibility as soon as practicable upon receipt of verification of benefits.

(3) Eligibility requirements shall be applied by the office without regard to race, color, national origin, sex, age, religion, type of disability, genetic information, marital status, sexual orientation, gender identity, citizenship, pregnancy, or veteran status.

(4) The individual shall meet legal age requirements for employment at the time rehabilitation services are provided. There shall be no maximum age at which an individual is ineligible for services.

(5) There shall be no residency requirements for eligibility purposes. However, the individual shall be available to participate in rehabilitation services.

(6) Eligibility determinations shall be made within sixty (60) calendar days from the date of application, unless:

(a) There are unforeseen circumstances beyond the control of the office that prevent making the determination within the timeframe; or

(b) The individual and office agree to a one-time extension that reflects the minimum additional time needed to obtain the information necessary to determine eligibility and that specifies a date by which eligibility shall be determined. The sixty (60) day eligibility deadline shall not be extended if presumptive eligibility under subsection (2) of this section has been established.

(7) Any agreement to extend the eligibility determination period shall be documented in the case record.

(8) Services shall be provided only to address the employment needs of individuals with disabilities.

(9) Signing an application for services shall document the individual's intent to achieve an employment outcome.

(10) Limitations in functional capacity must be a direct result of the disability and not the result of attendant factors such as lack of training, labor market conditions, or transportation. Functional capacity includes self-care, work skills, interpersonal skills, communication, mobility, self-direction and work tolerance.

(11) A comprehensive assessment may be needed prior to developing an Individualized Plan for Employment and assigning a priority category.

(12) An individual requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment if the unique skills of a qualified vocational rehabilitation professional are required to assist the individual in achieving an employment outcome.

(13) Individuals are considered underemployed when a disability adversely affects the ability to obtain a position that could reasonably be expected:

(a) Considering education, experience, and capabilities,

(b) Prior to the onset or worsening of a disabling condition, or

(c) Considering current capabilities with or without accommodations.

(14) The eligibility determination shall result in one of the following categories: Eligible and Accepted, Eligible and Out-of-Selection, Ineligible, or Eligibility Unknown.

(15) If the determination is "Eligible and Accepted," the case should progress toward development of an Individualized Plan for Employment in accordance with Section 6 of this administrative regulation.

(16) If the determination is "Eligible and Out-of-Selection," the individual shall be assigned to a priority category and served in accordance with Section 5 of this administrative regulation and 781 KAR 1:030, including placement on any applicable waitlist and provision of information and referral services as required by federal law.

(17) All individuals with disabilities who are assigned to a closed priority category shall be provided information and referral services consistent with 34 C.F.R. 361.36.

(18) If an individual is determined ineligible for services, the individual, and as appropriate, the individual's authorized representative, shall be notified and advised of the reasons for the ineligibility decision and information regarding appeal rights.

(19) If eligibility cannot be determined based on existing information, the eligibility determination shall be classified as "Eligibility Unknown," and the individual shall be afforded an opportunity for trial work in accordance with Section 3 of this administrative regulation.

[~~Section 2.~~] [~~Employees' Request for Services.~~]

[~~(1)~~] [~~An employee of the office who wishes to request rehabilitation services shall advise the Director of Field Services or a designee.~~]

[~~(2)~~] [~~The Director of Field Services or a designee and the employee shall select a counselor to take the request for services. If practicable, the counselor shall be located in an adjacent district to the district in which the employee resides.~~]

Section 3. Trial Work.

(1) Trial Work Experience shall be provided when an individual's ability to benefit from vocational rehabilitation services in terms of an employment outcome cannot be determined based on existing information, as required by 34 C.F.R. 361.42(e).

(2) Before the office may determine that an individual is unable to benefit from vocational rehabilitation services due to the severity of disability, the office shall:

(a) Provide Trial Work Experience in realistic work settings, using appropriate supports; and

(b) Base any determination of ineligibility on clear and convincing evidence, consistent with 34 C.F.R. 361.42(e)–(f).

(3) Trial Work Experience shall be provided only when:

(a) The individual has applied for vocational rehabilitation services;

(b) Eligibility cannot be determined without direct observation of the individual's abilities, capabilities, and capacity to perform work; and

(c) The experience is necessary to obtain information required to make an eligibility determination.

(4) Trial Work Experience shall:

(a) Occur in one or more competitive, integrated, or community-based settings that reflect typical workplace demands;

(b) Include reasonable supports such as job coaching, assistive technology, or other services necessary for the individual to participate;

(c) Be individualized and adjusted as needed based on the individual's progress and functional needs; and

(d) Be conducted for a sufficient variety and duration to permit an informed eligibility decision.

(5) The office shall develop, in collaboration with the individual where possible, a written Trial Work Experience Plan that:

(a) Identifies the specific trial work activities, settings, and supports to be provided;

(b) Establishes the expected duration and review intervals;

(c) Identifies providers responsible for delivering supports.

(6) The office shall periodically assess the individual's performance, functional abilities, and support needs during Trial Work Experience with documentation of the individual's progress.

(7) Upon completion of Trial Work Experience, the office shall determine:

(a) The individual is eligible for vocational rehabilitation services because the individual can benefit in terms of an employment outcome; or

(b) The individual is ineligible for vocational rehabilitation services based on clear and convincing evidence obtained from Trial Work Experience.

(8) Limitations.

(a) Trial Work Experience shall not substitute for assessments or services provided under an Individualized Plan for Employment.

(b) Trial Work Experience shall not exceed the time necessary to obtain the information required to make an eligibility determination.

(c) Extended evaluation periods shall not be used in lieu of the requirements of this Section, consistent with 34 C.F.R. 361.42(f).

(9) Comparable services and benefits and financial participation requirements shall not apply to Trial Work Experience services, consistent with 34 C.F.R. 361.53(b)(2)(i), because these services occur prior to eligibility determination.

[~~Section 3.~~] [~~Employees' Relatives' Request for Services.~~]

[~~(1)~~] [~~An employee of the office shall not take a request for services or provide vocational rehabilitation services to a relative.~~]

[~~(2)~~] [~~The relative shall be referred to the Director of Field Services or a designee.~~]

[~~(3)~~] [~~The Director of Field Services or a designee and the individual shall identify a staff member who is not a relative to take the request for services and to provide services as deemed appropriate.~~]

Section 4. Ineligibility.

(1) If any of the eligibility criteria are not met, the individual shall be determined ineligible for vocational rehabilitation services. Before issuing an ineligibility determination, the office shall provide the individual an opportunity for consultation regarding the proposed decision.

(2) If the consultation does not resolve the issue, the individual shall be informed in writing and in an accessible format of the ineligibility decision. This document shall contain the reason for the determination and information regarding the individual's appeal rights.

(3) If the individual is determined ineligible due to a finding that the individual cannot benefit in terms of an employment outcome following a period of trial work, the office shall:

(a) Consult with the individual;

(b) Issue written notice stating the reason for the determination and advising of the right to appeal under 781 KAR 1:010;

(c) Review the ineligibility decision within twelve (12) months of the initial decision; and

(d) Conduct additional reviews thereafter upon the request of the individual. Any review does not limit or replace the individual's right to appeal the ineligibility determination at any time.

(4) If the office determines that the individual is not eligible because the individual is unable to pursue competitive integrated employment or is otherwise unable to participate in such employment due to disability-related limitations, the office shall:

(a) Consult with the individual, consistent with 34 C.F.R. §§ 361.43 and 361.44;

(b) Issue written notice stating the reason for the determination and advising of the right to appeal under 781 KAR 1:010; and

(c) Provide information and referral services to assist the individual in obtaining services from other appropriate agencies.

(5) If an individual affirmatively states that they do not desire to continue pursuing competitive integrated employment at this time and chooses to withdraw from services, the office shall document the individual's voluntary decision and close the case. A voluntary withdrawal by the individual does not constitute an ineligibility determination and does not trigger appeal rights. In addition, the individual may reapply for services at any time.

[~~Section 4.~~] [~~Legal Fees. The office shall not be responsible for any fees incurred by an applicant or eligible individual for legal services.~~]

Section 5. Priority Categories.

(1) An individual determined eligible shall be assigned to one (1) of the following priority categories:

(a) Priority Category 1: Individual with a most significant disability is an individual with a disability who has been determined eligible for vocational rehabilitation services, requires multiple vocational rehabilitation services for a period of six (6) months or more, and experiences serious limitations in four (4) or more areas of functional capacity, in terms of an employment outcome.

(b) Priority Category 2: Individual with a significant disability is an individual with a disability who has been determined eligible for vocational rehabilitation services, requires multiple vocational rehabilitation services for a period of six (6) months or more and experiences serious limitations in three (3) areas of functional capacity, in terms of an employment outcome.

(c) Priority Category 3: Individual with a significant disability is an individual with a disability who has been determined eligible for vocational rehabilitation services, requires multiple vocational rehabilitation services for a period of six (6) months or more, and experiences serious limitations in one (1) to two (2) areas of functional capacity, in terms of employment outcome.

(d) Priority Category 4: Individual with a disability is an individual who has been determined eligible for vocational rehabilitation services and does not meet the criteria for priority categories 1, 2, or 3.

(2) If the assigned priority category is open, the individual shall be served.

(3) As set forth in 781 KAR 1:030, if the priority category is closed, the individual's case shall be held on a waitlist in their assigned priority category by date of application until funding is available to serve from the waitlist or the priority category assigned is opened or the order of selection is lifted.

(4) An individual who has been assigned to a priority category may be reassigned to a different category to correct an error; or if the office determines new information justifies the reclassification.

[~~Section 5.~~] [~~Payment Rates for Purchased Services.~~]

[~~(1)~~] [~~A service vendor shall not charge or accept from the applicant, eligible individual, or a relative payment for services unless the amount of the charge or payment is first presented to the office.~~]

[~~(2)~~] [~~Payment to out-of-state vendors shall be governed by the rates established by the vocational rehabilitation agency in the state where services shall be provided.~~]

Section 6. Individualized Plan for Employment.

(1) The Individualized Plan for Employment (IPE) shall be developed in accordance with the Rehabilitation Act of 1973, as amended, and the Workforce Innovation and Opportunity Act (WIOA), and 34 C.F.R. 361.45, and 361.46.

(2) The IPE, including any amendments, shall be jointly agreed upon by the office and the individual. The IPE shall be executed on office-approved forms.

(3) As required by 34 C.F.R. 361.45(c), a copy of the IPE, and any amendments, shall be provided to the individual in their native language or mode of communication that enables the full participation of the individual.

(4) The IPE implementation date shall be the date the office signs the IPE after all other required signatures have been obtained.

(5) The IPE shall be developed as soon as possible, but not later than ninety (90) days after the date of determination of eligibility, unless the office and individual agree in writing to a one-time extension that specifies a completion date.

(6) The individual may choose to develop all or part of the IPE independently, with the assistance of the office, or with the help of a representative or a disability advocacy organization, consistent with informed choice.

(7) The IPE shall specify:

(a) A specific employment outcome;

(b) The vocational rehabilitation services required to achieve the outcome;

(c) Providers of each service;

(d) Timelines for the initiation of services;

(e) Responsibilities of the individual and the office, including financial participation when applicable;

(f) Comparable services and benefits; and

(g) The need for post-employment services, if any.

(8) A complete copy of the signed IPE and any amendments shall be provided to the individual promptly after execution.

(9) Amendments to the IPE shall:

(a) Be made when any substantive changes in the employment outcome, services, or the provider are necessary; and

(b) Only be made when jointly agreed upon and signed by both the office and individual.

(10) The office may authorize incidental expenditures not exceeding $200 per authorization or five hundred dollars ($500) per fiscal year without obtaining the individual's signature if the expenditure is for maintenance, clothing, uniforms, transportation, licenses or permits, assistive technology devices, and specialized aids or appliances for the blind.

(11) The IPE shall be reviewed with the individual at least annually. The first annual review shall occur on or before the anniversary date of the IPE, and thereafter, on or before the most recent annual review. If a significant change to the rehabilitation program is required, an IPE amendment shall be written.

(12) Prior to developing or amending an IPE, the office shall provide the individual with information necessary for informed choice regarding potential employment outcomes, services, service providers, and methods of procuring services. Alternative methods of service delivery shall be identified unless prohibited by law.

(13) Prior to developing or amending an IPE, individuals shall be given a description of services and providers, allowing individuals to have input into the services and providers selected. Except where otherwise provided by state or federal law or regulation, alternative methods to provide services shall be identified for the individual.

[~~Section 6.~~] [~~Potentially Terminal Illness. Services shall not be provided to individuals with a potentially terminal illness unless:~~]

[~~(1)~~] [~~There is a favorable medical prognosis for recovery; or~~]

[~~(2)~~] [~~There is a prospect of survival for a reasonable period of time, allowing a return to work for at least twelve (12) months (work life expectancy).~~]

[~~(a)~~] [~~If surgery, chemotherapy, nuclear medical treatment, or similar ancillary medical service is expected to cure the condition, it may be provided as with another medical problem.~~]

[~~(b)~~] [~~If the attending physician feels the prognosis is guarded, the office shall request a letter indicating the individual's work life expectancy. For those individuals with a twelve (12) month work life expectancy services may be considered.~~]

[~~Section 7.~~] [~~Second Opinions.~~]

[~~(1)~~] [~~The office may seek a second opinion from a qualified practitioner before determining eligibility or before authorizing services if the office has reason to believe that a second opinion would provide more information necessary to determine eligibility.~~]

[~~(2)~~] [~~If the office determines that eligibility is not met or does not authorize services, an individual may utilize the appeals process established in 782 KAR 1:010.~~]

Section 7.[~~Section 8.~~] Self-employment Enterprises. The requirements established in this section shall be met prior to planning for self-employment for an [~~eligible~~]individual.

(1) An eligible individual shall undergo an assessment to determine work skills interests, interpersonal skills, related functional capacities, and other pertinent characteristics. Self-employment shall be considered only if:

(a) The self-employment venture is expected to be the individual's primary source of employment; and

(b) The anticipated earnings are comparable to the earnings of individuals without disabilities who are self-employed in similar occupations with similar training, experience, and skills.

(2) Prior to approval of a self-employment goal, the office shall:

(a) Assess the individual's work skills interests, interpersonal skills, related functional capacities, and other pertinent characteristics to determine suitability for self-employment; and

(b) Require the individual to participate in prevocational and small business trainingprior to starting a new self-employment business, if necessary to support an informed choice for a self-employment outcome.

[~~(2)~~)] [~~An eligible individual shall participate in prevocational and small business training as established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010.~~]

(3) Prior to provision of services for a new self-employment venture, an[~~An eligible~~] individual shall obtain any required license, permit, certificate, or lease, and be in conformity with all federal and state laws and local ordinances to commence an enterprise. Proof of compliance with this subsection shall be provided upon request.

(4) An [~~eligible~~]individual seeking to develop a self-employment enterprise requiring start up costs of more than $1,000 shall:

(a) Complete a feasibility study of the proposed business; and

(b) Submit a written business plan and have it approved by the office[~~pursuant to the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010, prior to provision of services~~]. The business plan shall address, at a minimum, the nature of the product or service, market and competition, marketing approach, management structure, projected costs, and projected revenues[~~consist of the following:~~]

[~~1.~~] [~~Executive summary;~~]

[~~2.~~] [~~Description of product or service;~~]

[~~3.~~] [~~Assessment of available consumers to be served;~~]

[~~4.~~] [~~Competitors currently in operation in the industry;~~]

[~~5.~~] [~~Marketing plan;~~]

[~~6.~~] [~~Costs of production;~~]

[~~7.~~] [~~Management details and structure; and~~]

[~~8.~~] [~~Detailed financial analysis~~].

(5) The office shall not be the sole source of capitalization for a self-employment enterprise with start up costs of $5,000 or more. The individual shall document other financial resources or in-kind contributions that will be used to support the venture.

[~~(a)~~)] [~~In addition to requirements under subsection (4) of this section, an eligible individual seeking financial assistance with start up costs of $5000 to $10,000 shall contribute fifty (50) percent of the cost in excess of $5,000 either in capital or documented value of existing equipment used in the daily operation of the business and ninety (95) percent of the cost in excess of $10,000.~~]

[~~(b)~~)] [~~An eligible individual shall provide documentation that the assets necessary for the required financial participation are in place prior to provision of services by the office.~~]

(6) In addition to requirements under subsection (5) of this section, an individual seeking financial assistance with start up costs shall contribute:

(a) Fifty (50) percent of the portion of start up costs between five thousand dollars ($5,000) and ten thousand dollars ($10,000); and

(b) Ninety-five (95) percent of that portion of start up costs that exceeds ten thousand dollars ($10,000).[~~The total office expenditures toward the start up costs for a self-employment enterprise shall not exceed $10,000 unless:~~]

[~~(a)~~)] [~~All provisions of subsections (1) through (5) of this section are met; and~~]

[~~(b)~~)]

[~~1.~~] [~~The nature of the individual's vocational rehabilitation needs make it necessary that the service be provided;~~]

[~~2.~~] [~~The denial of the service will prohibit the individual from achieving the vocational goal; or~~]

[~~3.~~] [~~The provision of the service will result in a cost savings to the office.~~]

(7) The individual's contribution may be made in cash or documented value of existing equipment used in the daily operation of the business.

(8) An individual shall provide documentation that the assets necessary for the required financial participation under subsection (6) of this Section are in place prior to provision of services by the office.

(9) The total office expenditures toward the start up costs for a self employment enterprise shall not exceed ten thousand dollars ($10,000).

(10) For an existing business in which the individual has been self-employed for at least one (1) year, the office may provide only those disability-related services or accommodations that are necessary for the individual to maintain competitive integrated employment in that business. The office shall not fund expansion of an existing business beyond disability-related needs.

(11) The office shall not provide start-up funding for self-employment ventures that are speculative in nature, organized as nonprofit entities, or that involve purchase of real estate, franchise fees, or payment of existing business debt. Additional limitations on the scope of services for self-employment shall comply with federal vocational rehabilitation requirements, including 34 C.F.R. Part 361, and all applicable state laws.

Section 8. Financial Participation.

(1) The Office may require financial participation from individuals for certain vocational rehabilitation services, consistent with 34 C.F.R. 361.53 and 361.54. Financial participation shall be determined through a financial participation assessment that evaluates the individual's adjusted income and applicable comparable services and benefits.

(2) Individuals who have been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act shall be exempt from financial participation; however, comparable services and benefits shall still be applied consistent with 34 C.F.R. 361.53.

(3) Financial participation shall apply only to services subject to an economic need determination under this administrative regulation and 781 KAR 1:040, and shall not apply to services that are exempt under 34 C.F.R. 361.54(b).

(4) A financial participation assessment shall be completed prior to implementation of an IPE and when the IPE is amended to add services subject to financial participation.

(5) The financial participation assessment shall consider:

(a) The individual's adjusted gross income and household size;

(b) The amount by which adjusted income exceeds 250 percent of the federal poverty guideline for the household size; and

(c) Disability-related expenses paid directly by the individual that are necessary for the individual to achieve an employment outcome.

(6) The Office shall determine the individual's required contribution toward the cost of services based on the individual's adjusted excess income and the percentage of participation applicable to that income level. The percentage of participation shall be established by the office and shall be made publicly available. The amount of financial participation shall be reflected in the IPE.

(7) The individual shall be responsible to pay the amount of financial participation agreed to in the IPE. The Office shall not be responsible for any outstanding or unpaid balance for an authorized good or service owed to a vendor resulting from the individual's share of financial participation.

(8) The Office may request updated financial information when there is a reasonable basis to believe that the individual's financial circumstances or household composition has changed in a manner that may alter the amount of financial participation.

(9) An individual who experiences a significant change in financial circumstances may request a review of the financial participation assessment. If a change results in a revised

contribution amount, the individualized plan for employment shall be amended accordingly.

Section 9. Confidentiality.

(1) The Office shall maintain the confidentiality of all personal information obtained from an individual. Each individual, or their representative, shall be informed of:

(a) The authority under which information is collected;

(b) The principal purposes for which the information will be used;

(c) Whether providing the requested information is mandatory or voluntary and the effects of not providing the requested information;

(d) The circumstances under which information may be released without informed written consent; and

(e) Identification of the agencies to which information is routinely released.

(2) The office may only communicate with individuals via text/SMS only when the individual has provided consent for that mode of communication and the consent is documented in the case record. If the individual revokes consent, the Office shall cease using that communication method.

(3) Except as provided in subsections (8) through (11) of this Section, personal information shall not be released without the individual's informed written consent, except to:

(a) The individual or their authorized representative; or

(b) A service provider or medical provider for purposes directly related to the individual's vocational rehabilitation services.

(4) Informed written consent is required to release information to any party not otherwise authorized in subsection (3) of this Section, including a parent of an individual who is 18 years of age or older.

(5) Informed written consent shall specify:

(a) The purpose for which the information is released;

(b) The specific information to be released;

(c) The date of expiration of the informed written consent;

(d) An assurance that information will not be re-released to the individual or others; and

(e) The dated signature of the individual or their legal representative.

(6) If personal information has been obtained from another agency or organization, including the individual's medical providers, it may only be released by or under the conditions established by the other agency or organization.

(7) An individual who believes information in their case record is inaccurate or misleading may request that the office amend the information. If the information is not amended, because the office determines the information is accurate, the request for the amendment shall be documented in the case record.

(8) Personal information may be released to other programs or authorities only for its program purposes under the same conditions that govern the release of information to an individual or that individual's representative, but only with the written consent of the individual.

(9) In compliance with 34 C.F.R. 361.38, personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research shall only use de-identified information and shall not contain personal identifiers without the individual's informed written consent and only for purposes directly connected with administration of the vocational rehabilitation program, or for purposes which would significantly improve the quality of life for persons with disabilities and only if the organization, agency, or individual assures that:

(a) Information will be used only for the purposes for which it is being provided;

(b) Information will be released only to persons officially connected with the audit, evaluation, or research;

(c) Information shall not be released to the involved individual;

(d) Information shall be managed in a manner to safeguard confidentiality; and

(e) Final products shall not reveal any personal identifying information without the informed written consent of the involved individual or the individual's representative.

(10) Informed written consent is not required for release of information when the request is:

(a) For purposes directly related to the administration of the vocational rehabilitation program,

(b) Required by Federal or State law;

(c) In response to a court order, warrant, subpoena, or other similar legal requirement; or

(d) In response to investigations in connection with law enforcement, fraud, or abuse (except where expressly prohibited by Federal or State laws or regulations), and in response to an order issued by a judge, magistrate, or other authorized judicial officer.

(11) The Office may release personal information when necessary to protect the individual or others when the individual poses a direct threat to the individual's safety or the safety of others.

Section 10.[~~Section 9.~~] Gender Reassignment. Office funds shall not be used to pay for gender reassignment surgery.

[~~Section 10.~~] [~~Tools and Equipment. The eligible individual shall return tools, equipment, and supplies to the office if no longer used for the employment outcome.~~]

Section 11. Case Closure.

(1) A case shall be closed when no further services from the Office are justified, required, or anticipated in the immediate future.

(2) A case shall be closed as a competitive integrated employment outcome when:

(a) The individual has been determined eligible; and has received an assessment for determining eligibility and vocational rehabilitation needs;

(b) Services have been provided in accordance with the IPE; and

(c) The individual has maintained competitive integrated employment for at least ninety (90) consecutive days or for supported employment cases, 90 days after transition to extended services.

(3) For closures based on achievement of a competitive integrated employment outcome, the Office shall provide written notice of case closure to the individual summarizing the employment outcome and services provided. When a case is closed due to ineligibility, the Office shall provide written notice of the ineligibility determination. Ineligibility may result from:

(a) A determination that the individual does not meet the eligibility criteria in Section 2 of this administrative regulation;

(b) A determination, based on trial work experiences, that the individual is unable to benefit from vocational rehabilitation services in terms of an employment outcome due to the severity of disability; or

(c) A decision by the individual not to pursue competitive integrated employment at this time.

(4) An individual who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act shall not be determined ineligible:

(a) based on inability to benefit unless, after participating in trial work experiences, clear and convincing evidence establishes that the individual cannot benefit from vocational rehabilitation services in terms of an employment outcome; or

(b) Such an individual may be determined ineligible if they choose not to pursue competitive integrated employment.

(5) Before a determination of ineligibility, the Office shall consult with the individual or provide an opportunity for consultation. At the time of determination, referrals should be made to appropriate agencies and facilities.

(6) If an individual is determined ineligible based on a finding that the individual is incapable of benefiting in terms of an employment outcome, the Office shall review that determination within twelve (12) months and thereafter upon the request of the individual or representative. Consultation shall be provided unless the individual cannot be located, refuses services or review, is no longer present in the state, has a rapidly progressive or terminal condition, or is deceased.

(7) If an individual continues to seek competitive integrated employment but declines further services, or chooses not to pursue competitive integrated employment, the case may be closed as ineligible or unsuccessful, as appropriate.

(8) Cases may be closed as unsuccessful if an intervening reason, including but not limited to death, inability to locate the individual, individual institutionalized, transfer to another agency, failure to cooperate, refusal of services, transportation not feasible or available, referral to an independent living program, precludes a determination of eligibility or achievement of an employment outcome.

(9) For cases closed from Applicant status for a reason other than ineligibility, the Office shall document the rationale for closure in the case record.

(10) Prior to case closure, the Office shall provide information and referral services to the individual, as appropriate.

(11) For a student with a disability in potentially eligible status, the record shall be closed as soon as possible when the individual no longer meets the definition of a student with a disability, including when the individual reaches the maximum program age or is no longer enrolled in an education setting.

(12) For a student with a disability in application, accepted or IPE status, the case may be closed when eligibility or an IPE cannot be completed within applicable federal deadlines and reasonable efforts to contact the individual have been unsuccessful. Specific contact and documentation procedures shall be consistent with federal and state vocational rehabilitation requirements.

(13) Cases shall be closed from post-employment when one of the following criteria is met and documented in the case record:

(a) Employment appears secure following the provision of appropriate provision of post-employment services;

(b) A new or substantially revised program of rehabilitation services is required, in which situation, a new case may be opened; or

(c) Services have failed to maintain or return the individual to competitive integrated employment.

[Section 11.] [Training. Postsecondary training shall be provided for an eligible individual pursuant to this section.]

[(1)] [Except as provided in subsections (3) and (4) of this section, tuition and initial registration fees provided to the training facility of the eligible individual's choice shall not exceed those of the highest rate charged by a state-supported training facility in Kentucky that offers similar vocational preparation. If there is no similar program in the state, the amount of support shall be determined by the current fee for service memo.]

[(2)] [The Director of Field Services or a designee shall make exceptions to the limitations provided by subsection (1) if it is clearly demonstrated that exceptions are necessary to achieve the employment outcome as established in 34 C.F.R. 361.5(b)(16).]

[(3)] [The office shall provide tuition and initial registration fees for postsecondary programs for the deaf recognized by the U.S. Congress as national programs due to the provision of essential support services including:]

[(a)] [Interpreting services;]

[(b)] [Note-taking services; and]

[(c)] [Tutoring services.]

[(4)] [Other postsecondary programs for the deaf offering interpreting services, note-taking services, and tutoring services shall be used if the total cost of attendance does not exceed the total cost of tuition, fees and interpreting services, note-taking services, and tutoring services at the highest rate charged by a state-supported training facility in Kentucky that offers similar vocational preparation.]

[(5)] [Training shall be purchased only from training facilities that are accredited or licensed by accrediting or licensing bodies and that comply with all applicable state and federal requirements.]

[(6)] [An eligible individual planning to attend a postsecondary training facility shall apply for all financial assistance available through the training facility.]

[(7)] [An eligible post-secondary student shall:]

[(a)] [Maintain full-time status as defined by the institution;]

[(b)] [Maintain less than full-time status if full-time status is inconsistent with the consumer's unique strengths, abilities, and capabilities; or]

[(c)] [Maintain less than full-time status for one (1) semester if those hours are needed to graduate in the current year;]

[(d)] [All coursework shall facilitate the achievement of positive outcomes.]

[(e)] [By the end of the second term or semester and throughout each subsequent term or semester, the student shall achieve the higher of:]

[1.] [An overall "C" grade average; or]

[2.] [Standing required for admission, licensure, or certification.]

[(f)] [An exception to a requirement established in subsection (1) or (4) of this section shall:]

[1.] [Be granted if the student:]

[a.] [Has a need or circumstance that renders him unable to meet the requirement; and]

[b.] [Notifies the counselor of the need or circumstance prior to a change of standing at the institution.]

[2.] [Not be granted for the requirements established in subsection (5) of this section for a period beyond one (1) semester.]

[(8)] [The student shall provide the counselor with a copy of course grades as soon as possible after the end of each term or semester.]

[(9)] [If the student does not maintain the standards of this section, the counselor shall:]

[(a)] [Terminate service at the institution of higher education; and]

[(b)] [Simultaneously notify the student of the appeal procedure established in KRS 138.170.]

[(10)] [A service terminated under subsection (12) of this section shall be reinstituted if the student:]

[(a)] [Successfully appeals the counselors decision, in accordance with KRS 138.170; or]

[(b)] [Subsequently meets the standard under which the service was terminated.]

Section 12. Other.

(1) Gender Reassignment. Office funds shall not be used to pay for gender reassignment surgery.

(2) Mandatory reporting. Office staff, upon request of a victim of any act of domestic violence and abuse or dating violence and abuse, shall personally report the alleged abuse to a law enforcement officer after discussing the report with the victim.

(3) Individuals shall be informed that the Client Assistance Program (CAP) at Kentucky Protection and Advocacy is available to assist them in their relationship with OVR.

(4) Electronic signatures are allowed.

(5) Legal Fees. The Office shall not be responsible for any fees incurred by an individual for legal services, except as required by federal law. Nothing in this section prohibits the office from providing benefits counseling, advocacy training, or other vocational rehabilitation services permitted under 34 C.F.R. § 361.48, so long as those services do not include the payment of private legal fees.

[Section 12.] [Computer Hardware and Software Purchases.]

[(1)] [Except as provided in subsection (2) of this section or in Section 13 of this administrative regulation, the office shall not purchase a computer, microcomputer, or other hardware or software for the personal use of an applicant or eligible individual.]

[(2)] [The office shall consider the provision or upgrade or replacement of computer hardware and software if the equipment is:]

[(a)]

[1.] [Essential to compensate for the limitations caused by the disability; or]

[2.] [Required for the eligible individual to achieve or maintain a vocational objective of competitive integrated employment; and]

[(b)] [One (1) of the following criteria are met:]

[1.] [The equipment is required for vocational preparation;]

[2.] [The equipment is required to perform the job and no provision is made by the employer to supply the equipment; or]

[3.] [The equipment enables an eligible individual to become competitive in an integrated setting with nondisabled employees performing the same duties.]

Section 13. Service Fees.

(1) The office shall establish service fees in compliance with applicable state and federal procurement laws.

(2) The office may utilize multiple methods to establish service fees, including:

(a) Fixed predetermined rates;

(b) Fair market rates; and

(c) Value-based purchasing or a performance-based or milestone payment.

(3) OVR may procure a third party to conduct a rate study.

(4) The following factors shall be considered when establishing a service fee:

(a) Historical price of the good or service;

(b) The rate of inflation since last service fee change;

(c) Analysis of personnel costs to determine whether the service can be performed more economically by direct employment of office staff rather than utilizing a vendor;

(d) The professional qualifications required to render the service;

(e) Budgetary analysis to determine the impact on the federal award to ensure the office does not over obligate funds;

(f) A survey of multiple neighboring states;

(g) A survey of factors that may be unique to a geographic region such as availability of a service and transportation costs;

(h) A survey of other Kentucky agencies that provide the same service;

(i) A survey of community rehabilitation programs and other providers; and

(j) Cost analysis of the individual elements of the price.

(5) The office shall permit exceptions to the published service fee as necessary to ensure the individual receives approved services. A rate differential may be applied when the office determines a high level of provider effort or higher intensity for the service is required to meet the unique needs of the individual.

(6) The office shall maintain all documentation used to determine a service fee.

(7) The office shall revise service fee procedures and standards prior to the start of the fiscal year in which the revision will become effective.

(8) The executive director shall have final approval authority for all service fees and service fee memorandums.

(9) The office shall review service fees, service fee memoranda, and related rate schedules at least every other year and shall issue revised service fees or fee memoranda as necessary. Updated service fee schedules and memoranda shall be made publicly available.

[~~Section 13.~~] [~~Medical Treatment. A medical treatment or procedure that is experimental or that does not have a consistent record of significant improvement in vocational functioning in better than fifty (50) percent of the subjects shall not be provided by the office.~~]

Section 14. Exceptions.

(1) The Office may approve an exception to a requirement, condition, or limitation in this administrative regulation when permitted under federal law, including 34 C.F.R. 361.50(d), and when necessary to ensure that services are provided consistent with individualized assessments, informed choice, and the individual's vocational rehabilitation needs.

(2) Any exception granted under this Section shall be consistent with state and federal vocational rehabilitation requirements, including 34 C.F.R. Part 361 and 2 C.F.R. Part 200, and shall support the achievement of the individual's employment outcome.

[~~Section 14.~~] [~~Vehicle Purchase. The office shall not purchase a vehicle unless the occupation of the eligible individual requires a vehicle as occupational equipment.~~]

Section 15. Incorporation by Reference.

(1) "OVR-2", November 20, 2025, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Vocational Rehabilitation, 500 Mero Street 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available at kcc.ky.gov/vocational-rehabilitation.

VICKIE WISE, Deputy Secretary

APPROVED BY AGENCY: December 30, 2025

FILED WITH LRC: December 31, 2025 at 12:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 26, 2026, at 1:00 pm, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, Kentucky 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brooke McDaniel

Subject Headings: Disability and Disabilities, Workforce Development, Education

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation outlines the requirements for the determination of eligibility for the receipt of goods and services from the Office of Vocational Rehabilitation (OVR) in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq.

(b) The necessity of this administrative regulation: KRS 151B.195 requires OVR to promulgate administrative regulations outlining the administration of vocational rehabilitation services in Kentucky in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation governs the eligibility determination process and the assignment of a priority category for the Order of Selection.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists individuals seeking services from OVR in understanding the application and eligibility determination process.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The proposed amendments are made to comply with federal requirements regarding the Order of Selection categories and the changes made to KRS 151B.195 by SB 103 RS 25 for establishing service fees and a preference for in state services.

(b) The necessity of the amendment to this administrative regulation: Changes to the regulation are necessary to comply with amendments made to KRS 151B.195 in SB 103 RS 25 and federal requirements regarding the Order of Selection categories.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by outlining the specific requirements for eligibility and financial participation determinations and the assignment of priority categories for the Order of Selection.

(d) How the amendment will assist in the effective administration of the statutes: This amendment makes the eligibility determination, financial participation, and assignment of priority categories process more clear to the regulated individuals.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, this proposed

amendment implements Senate Bill 103 RS25.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no new costs to any person or entity.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated individuals will have a better understanding of how eligibility and financial participation determinations are made and how individuals are assigned to priority categories.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No additional costs are expected.
(b) On a continuing basis: No additional costs are expected.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds received by the Office of Vocational Rehabilitation and the required state match funds; however, there are no additional costs as a result of this proposed amendment.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this amendment to the existing administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all affected entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: 29 U.S.C. § 721-723; 34 C.F.R. Part 361; KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This act is authorized by KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a): Not applicable.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

STATEMENT OF EMERGENCY
781 KAR 1:030E.

This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a) and is necessary to address an imminent threat to public welfare, ensure continued compliance with federal vocational rehabilitation requirements, and implement the mandates of SB 103 RS 25. The Office of Vocational Rehabilitation (OVR) is currently operating under an Order of Selection (OOS) because available resources are insufficient to serve all eligible individuals with disabilities. Under the existing regulatory framework, OVR cannot correctly assign priority categories or administer OOS in a manner consistent with 34 C.F.R. §§ 361.36, 361.41, and 361.42. As a result, individuals with the most significant disabilities are being placed on waitlists under outdated and noncompliant criteria. Immediate regulatory correction is required to avoid continued improper prioritization and further delay in service delivery. Immediate action is also required to prevent jeopardizing federal funding for the OVR program. Continued administration of an unlawful OOS constitutes federal noncompliance and poses a direct risk to Kentucky's ability to draw federal vocational rehabilitation funds. This creates an imminent threat to public welfare, as OVR is currently unable to serve new eligible individuals and cannot release any of the approximately 3,000 individuals now waiting for services until the regulations are corrected. In addition, SB 103 RS 25 amended KRS 151B.195 to require OVR to promulgate administrative regulations that established a preference for in-state services and set forth its policy and procedure used to establish service fees. Ordinary administrative regulation

procedures are inadequate to prevent this harm, because the delay inherent in the ordinary process would prolong improper administration of the OOS and extend service denials for individuals with the most significant disabilities. Therefore, this emergency regulation is necessary to establish the legally required framework for OVR to comply with federal and state law and to protect public welfare.

This emergency regulation will be replaced by an ordinary administrative regulation because it is necessary for agency operations and to ensure the agency's policies are more transparent. The companion ordinary administrative regulation is identical to this emergency regulation.

ANDY BESHEAR, Governor
VICKIE WISE, Deputy Secretary

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(Emergency Amendment)

781 KAR 1:030E. Order of selection[and economic need test for vocational rehabilitation services].

EFFECTIVE: December 31, 2025

RELATES TO: KRS 151B.190, 34 C.F.R. 361.36, 361.53, 361.54, 29 U.S.C. 721(a)(5), (15), (21)(A)

STATUTORY AUTHORITY: KRS 151B.185(2), (3), 151B.195(1), 29 U.S.C. 709(c), 34 C.F.R. 361.36, 361.54

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency. 34 C.F.R. 361.36(c) requires the office to determine, prior to the beginning of each fiscal year, whether to establish and implement an order of selection for state vocational rehabilitation services. 34 C.F.R. 361.36(d) requires federal guidelines for the imposition of an order of selection. [34 C.F.R. 361.54(b) authorizes the office to consider an individual's financial need for vocational rehabilitation services.] This administrative regulation establishes when an order of selection[and an economic need test] shall be applied to the provision of vocational rehabilitation services in order to distribute limited funds more equitably over the entire population of otherwise eligible individuals.

Section 1. [Definitions.]

[(1)] ["Eligible individual" means an individual who has been determined by the office to meet the basic conditions of eligibility for vocational rehabilitation services.]

[(2)] ["Executive director" means Executive Director of the Office of Vocational Rehabilitation.]

[(3)] ["Individual with a most significant disability" means an individual who has a disability that limits two (2) or more areas of functional capacity.]

[(4)] ["Functional capacity" means the capacity to perform tasks required in employment including:]

[(a)] [Mobility;]

[(b)] [Communication;]

[(c)] [Self-care;]

[(d)] [Self-direction;]

[(e)] [Interpersonal skills;]

[(f)] [Work tolerance; or]

[(g)] [Work skills.]

[(5)] ["Office" means the Office of Vocational Rehabilitation, and its appropriate staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.]

[(6)] ["Non-significant disability" means a disability that does not limit a functional capacity.]

[Section 2.] [Economic Need.]

[(1)] [Economic need shall be considered in determining whether to grant vocational rehabilitation services.]

[(2)] [The executive director shall exempt services from the economic needs test if the office is able to provide services to all eligible individuals with significant disabilities pursuant to Section 3 of this administrative regulation, with consideration of applicable comparable benefits as provided in 34 C.F.R. 361.53.]

[(3)] [An economic needs test as established in subsection (5) of this section shall be applied as a condition for furnishing the following vocational rehabilitation services:]

[(a)] [Physical and mental restoration services;]

[(b)] [Tuition and registration fees for vocational or college training;]

[(c)] [Maintenance other than diagnostic;]

[(d)] [Transportation other than diagnostic;]

[(e)] [Services, other than diagnostic, to members of an individual's family necessary to the adjustment or rehabilitation of the individual with a disability;]

[(f)] [Occupational licenses, tools, equipment, or initial stock (including livestock) or supplies;]

[(g)] [Postemployment services except as provided in subsection (4)(a)-(m) of this section;]

[(h)] [Other goods and services which can reasonably be expected to benefit an eligible individual in terms of employment outcomes;]

[(i)] [Initial vehicle and property modifications in excess of $10,000;]

[(j)] [Second or subsequent vehicle modifications regardless of cost;]

[(k)] [Vehicle modification repair or upgrades; or]

[(l)] [Hearing aid in excess of $1,000.]

[(4)] [The following services shall be excluded from an economic needs test:]

[(a)] [Assessment for determining eligibility and vocational rehabilitation needs;]

[(b)] [Counseling and guidance;]

[(c)] [Placement;]

[(d)] [Services provided by staff at state-owned and operated rehabilitation facilities;]

[(e)] [Rehabilitation technology except as specifically provided in subsection (3) of this section;]

[(f)] [Communication assistance in the individual's native language;]

[(g)] [Books, supplies, tools, or equipment for vocational or other training;]

[(h)] [Supported employment;]

[(i)] [Interpreter services for the deaf;]

[(j)] [Reader services for the blind;]

[(k)] [Personal assistance services;]

[(l)] [Tutors, note takers, or assistive technology education aids; or]

[(m)] [Other training, including driver training, on-the-job training, job coaching, job development, or job training.]

[(5)] [The office's economic needs test shall be based on the most current Kentucky Median Adjusted Gross Income developed by the U.S. Department of Commerce. If the individual has a monthly income that exceeds 100 percent of the most current median gross income, the individual shall apply the excess income to rehabilitation services necessary to achieve the employment goal except as provided for in 34 C.F.R. 361.54.]

[Section 3.] Order of Selection.

(1) If the executive director determines that the office's projected fiscal or personnel resources are insufficient[shall be unable] to provide the full range of services as required by the Rehabilitation Act of 1973, as amended, to all eligible individuals[applicants], the office shall inform the Statewide Council and implement the order of selection on a state-wide basis in compliance with 34 C.F.R. 366.36.

(2)[(1)] An eligible individual previously declared eligible for and receiving vocational rehabilitation services under an individualized plan for employment shall not be affected if the office implements an order of selection.

[(2)] [The order of selection shall not regulate the provision of information or referral services.]

(3) On implementation of the order of selection, the office shall continue to accept referrals of and applications from individuals with disabilities and continue determining eligibility for services.

(4) The order of selection shall not impact[regulate] the provision of information, referral services, or authorization of assessment for determining eligibility.

(5) [An applicant shall be declared eligible or ineligible as appropriate.]

[(6)]

[(a)] [An eligible individual entering accepted status after implementation of the order of selection shall be assigned to a priority category.]

[(b)] [If the priority category is open, the individual shall be served.]

[(c)] [If the priority category is closed, the individual's case shall be held on a waitlist in accepted status until the priority category assigned is opened or the order of selection is lifted.]

[(7)] [The order of selection shall permit immediate reclassification into a higher priority category if circumstances justify the reclassification.]

[(8)] If the office is unable to provide services to all eligible individuals[with significant disabilities], the office shall first serve [eligible]individuals with the[a] most significant disability in the highest open priority category. Within each priority category, individuals shall be served in order of application date[first and then serve eligible individuals with a significant disability on a first-applied, first-served basis, as established by the date of application within a category. If funds become available, the executive director and Statewide Council for Vocational Rehabilitation shall adjust the priority categories to be served as appropriate to provide services to as many consumers as funds allow].

(6)[(9)] The order of selection established in this section shall be followed with the categories to be served designated at the time of implementation.

(7) The executive director may serve individuals from the waitlist, open, or close one or more priority categories as appropriate, to provide services to as many individuals as funds allow.

[(10)] [The order of selection shall have priority categories as follows:]

[(a)] [Priority Category I - eligible individuals with a most significant disability that limits three (3) or more functional capacities;]

[(b)] [Priority Category II - eligible individuals with a most significant disability that limits two (2) functional capacities;]

[(c)] [Priority Category III - eligible individuals with a significant disability that limits (1) one functional capacity;]

[(d)] [Priority Category IV - Eligible individuals with a non-significant disability-.]

VICKIE WISE, Deputy Secretary

APPROVED BY AGENCY: December 30, 2025

FILED WITH LRC: December 31, 2025 at 12:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 26, 2026 at 1:00 pm, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, Kentucky 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brooke McDaniel
Subject Headings: Disability and Disabilities, Workforce Development, Education
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation outlines the requirements for the determination of eligibility for the receipt of goods and services from the Office of Vocational Rehabilitation (OVR) in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq., specifically the order of selection regarding priority categories.
(b) The necessity of this administrative regulation: This administrative regulation is required to implement order of selection as required by 29 U.S.C. 721(a)(5), 34 C.F.R. § 361.36.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation ensures order of selection is compliant with 29 U.S.C. 721(a)(5) and 34 C.F.R. § 361.36.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation outlines the requirements for the implementation of order of selection as mandated by 29 U.S.C. 721(a)(5) and 34 C.F.R. § 361.36.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The proposed amendment changes the definitions for the priority categories to bring them into compliance with federal law, specifically 29 U.S.C. 721(a)(5) and 34 C.F.R. § 361.36.
(b) The necessity of the amendment to this administrative regulation: Changes to the regulations are required to ensure compliance with 29 U.S.C. 721(a)(5) and 34 C.F.R. § 361.36.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment brings Kentucky's priority categories into compliance with federal law.
(d) How the amendment will assist in the effective administration of the statutes: This amendment is required to ensure Kentucky's priority categories are compliant with federal law.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: This administrative regulation does not require action by any entity or individual. It merely sets forth the guidelines for implementation of order of selection.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There is no cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): This administrative regulation does not grant benefits; it establishes the requirements for implementation of order of selection.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No additional costs.
(b) On a continuing basis: No additional costs.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds and state match funds received by the Office of Vocational Rehabilitation.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or

funding necessary to implement this proposed amendment.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all affected individuals.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 13B.170, 151B.017, 151B.185, 151B.190, 151B.195, 151B.200; 29 U.S.C. 721(a)(5); 34 C.F.R. 361.36.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 13B.170, 151B..017, 151B.185, 151B.190, 151B.195, 151B.200.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a): Not applicable.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

STATEMENT OF EMERGENCY
781 KAR 1:040E.

This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a) and is necessary to address an imminent threat to public welfare, ensure continued compliance with federal vocational rehabilitation requirements, and implement the mandates of SB 103 RS 25. The Office of Vocational Rehabilitation (OVR) is currently operating under an Order of Selection (OOS) because available resources are insufficient to serve all eligible individuals with disabilities. Under the existing regulatory framework, OVR cannot correctly assign priority categories or administer OOS in a manner consistent with 34 C.F.R. §§ 361.36, 361.41, and 361.42. As a result, individuals with the most significant disabilities are being placed on waitlists under outdated and noncompliant criteria. Immediate regulatory correction is required to avoid continued improper prioritization and further delay in service delivery. Immediate action is also required to prevent jeopardizing federal funding for the OVR program. Continued administration of an unlawful OOS constitutes federal noncompliance and poses a direct risk to Kentucky's ability to draw federal vocational rehabilitation funds. This creates an imminent threat to public welfare, as OVR is currently unable to serve new eligible individuals and cannot release any of the approximately 3,000 individuals now waiting for services until the regulations are corrected. In addition, SB 103 RS 25 amended KRS 151B.195 to require OVR to promulgate administrative regulations that established a preference for in-state services and set forth its policy and procedure used to establish service fees. Ordinary administrative regulation procedures are inadequate to prevent this harm, because the delay inherent in the ordinary process would prolong improper administration of the OOS and extend service denials for individuals with the most significant disabilities. Therefore, this emergency regulation is necessary to establish the legally required framework for OVR to comply with federal and state law and to protect public welfare.
This emergency regulation will be replaced by an ordinary administrative regulation because it is necessary for agency operations and to ensure the agency's policies are more transparent. The companion ordinary administrative regulation is identical to this emergency regulation.

ANDY BESHEAR, Governor
VICKIE WISE, Deputy Secretary

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(Emergency Amendment)

781 KAR 1:040E. Provision of Vocational Rehabilitation Services[~~Assistive technology services~~].

EFFECTIVE: December 31, 2025
RELATES TO: KRS 151B.190, 29 U.S.C. 705(30), 723, 34 C.F.R. 361.5(c)(9), 361.42, 361.45, 361.46, 361.48, 361.50, 361.53, 361.54
STATUTORY AUTHORITY: KRS 151B.185, 151B.195
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195 requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency. This administrative regulation establishes the requirements for the provision of vocational rehabilitation services, including assistive technology and other goods and services necessary for individuals with disabilities to prepare for, secure,

retain, advance in, or regain competitive integrated employment[~~in order to distribute limited funds more equitably over the entire population of otherwise eligible individuals~~].

Section 1. General Provisions.[~~Definitions.~~]

(1) Services under this administrative regulation shall be provided to individuals for diagnostic and assessment services necessary to determine eligibility or priority for services, and to enable an individual to prepare for, secure, retain, advance in, or regain competitive integrated employment as permitted by 34 C.F.R. 361.42.

(2) Comparable services and benefits, including private insurance, Medicaid, Medicare, and other third-party payers, shall be used to the maximum extent allowable prior to the expenditure of office funds, unless the service is exempt under federal regulations or unless the use of the comparable service or benefit would result in unreasonable delay in the progress of the individual, consistent with 34 C.F.R. 361.53.

(3) Financial participation requirements shall apply in accordance with 781 KAR 1:020 when permitted under federal law.

(4) All services shall be provided consistent with the individual's informed choice and shall be aligned with the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests as required under 34 C.F.R. 361.46 and 361.52. Informed choice does not obligate the office to provide higher-cost or non-essential services, equipment, or options when a less costly alternative meets the disability-related vocational rehabilitation needs.

(5) All goods and services shall be purchased in accordance with the Kentucky Model Procurement Code and federal procurement standards.

(6) The office shall not purchase general household or personal items not directly related to disability-related vocational need unless the item is necessary for the individual to participate in a vocational rehabilitation service or to achieve an employment outcome.

(7) The office shall not impose fixed or arbitrary limits on the cost, type, or duration of services and shall allow for individualized exceptions consistent with 781 KAR 1:020.

(8) Service fees, rate schedules, and maximum allowable costs for services shall comply with 781 KAR 1:020.

(9) The office shall comply with applicable cost principles set forth in 2 C.F.R. Part 200 when making expenditures.

(10) Direct payments to individuals.

(a) The office may issue a direct payment to an individual when necessary for the individual to obtain, maintain, or advance in employment or to participate in a vocational rehabilitation service under an IPE, and when no qualified vendor is reasonable available to provide or accept payment for the service.

(b) For purposes of this processing a direct payment under subsection (a), an individual may be required to register as a vendor solely to facilitate payment. Vendor registration under this subsection shall not classify the individual as a commercial vendor or service provider for any other purpose.

(c) Nothing in this subsection shall exempt the office from complying with state and federal procurement requirements.

[~~(1)~~] [~~"Assistive technology specialist" means an individual who analyzes the needs of individuals with disabilities, assists in the selection of the appropriate assistive technology, and trains the eligible individual on how to properly use the specific equipment.~~]

[~~(2)~~] [~~"Certified driver rehabilitation specialist" means a driver rehabilitation specialist who has obtained certification to provide services from the Association for Driver Rehabilitation Specialists.~~]

[~~(3)~~] [~~"Driver evaluation" means a clinical and behind-the-wheel evaluation by a certified driver rehabilitation specialist to identify an eligible individual's driver rehabilitation needs to allow that person to drive independently.~~]

[~~(4)~~] [~~"Driver rehabilitation specialist" means an individual who plans, develops, coordinates, and implements driver rehabilitation services for individuals with disabilities.~~]

[~~(5)~~] [~~"Driver training" means behind-the-wheel instruction required to teach an individual with a disability to drive with or without vehicle modifications.~~]

[~~(6)~~] [~~"Eligible individual" means an individual who has been determined by the office to meet the basic conditions of eligibility for vocational assistive services as defined in 34 C.F.R. 361.42.~~]

[~~(7)~~] [~~"Extended driver evaluation" means additional evaluation necessary in those cases in which an individual's ability to drive cannot be determined after a driver evaluation.~~]

[~~(8)~~] [~~"Family" means spouse, children, parents, grandparents, or siblings.~~]

[~~(9)~~] [~~"Individualized plan for employment" means a written plan for a specific employment outcome as required by 34 C.F.R. 361.46.~~]

[~~(10)~~] [~~"Office" means the Office of Vocational Rehabilitation and its staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.~~]

[~~(11)~~] [~~"Structural addition" means any improvement to real property that would increase the square footage or footprint of the property.~~]

Section 2. Specialized Eligibility and Assessment Requirements.

(1) Terminal Illness Affecting Ability to Benefit.

(a) For individuals with medical conditions that may be terminal, eligibility and service decisions shall be based on documented functional limitations and the individual's ability to benefit from vocational rehabilitation services in terms of achieving an employment outcome, consistent with 34 C.F.R. 361.42.

(b) The office may provide services when the individual's prognosis supports a reasonable expectation of achieving or maintaining competitive integrated employment for a sufficient period to prepare for, obtain, maintain, or advance from services.

(c) When the attending physician identifies a guarded prognosis, the office may require documentation regarding anticipated work capacity or work life expectancy to support eligibility or service decisions.

(d) When documentation indicates that the individual is unlikely to benefit from services due to imminent medical decline, the counselor shall consult with the Branch Manager prior to an eligibility determination or denial of services.

(2) Visual Impairments.

(a) Verification of a visual impairment shall be based on medical documentation from an ophthalmologist or optometrist that identifies the nature and extent of the visual condition and any resulting functional limitations relevant to vocational rehabilitation.

(b) When medical information is outdated or insufficient for eligibility or service planning, the office may require a current visual examination.

(c) When visual impairment co-occurs with hearing loss or when dual sensory loss is suspected, referral for audiological evaluation may be required to determine functional limitations and service needs.

(d) Individuals determined eligible for Social Security benefits based on statutory blindness shall be presumed eligible for vocational rehabilitation services consistent with 34 C.F.R. 361.42(a)(3).

(3) Rapidly Progressive Visual Conditions.

(a) A rapidly progressive visual disorder may be determined to constitute a disability prior to the onset of functional limitations when supported by medical documentation indicating that the condition:

1. Is progressive in nature;

2. Requires timely intervention; and

3. Is expected, if untreated, to result in functional limitations affecting employment.

(b) Eligibility and service planning for individuals with progressive visual conditions shall be based on documented functional limitations, anticipated vocational impact, and the individual's informed choice.

Section 3. Assistive Technology Services.

(1) Assistive technology services may be provided at any stage of the rehabilitation process when necessary to address disability-related functional limitations and enable participation in vocational rehabilitation services or achievement of the employment outcome identified in the individualized plan for employment (IPE).

(2) Assessment and Recommendation.

(a) Prior to authorization and purchase of any assistive technology device, an assessment shall be completed by the office.

(b) Recommendations shall identify the most cost-effective device or service necessary to meet disability-related vocational needs and shall be documented in the case record.

(3) Assistive technology may be purchased consistent with federal and state procurement requirements and any applicable fee schedules established under 781 KAR 1:020.

(4) Ownership and Recovery.

(a) Assistive technology that is recoverable shall remain the property of the office until reassigned or disposed.

(b) Non-recoverable assistive technology shall become the property of the individual upon delivery and is not subject to recovery. Ownership status shall be communicated to the individual in writing at the time of delivery.

Section 4. Hearing Assistive Technology.

(1) Hearing aids and assistive listening or alerting devices shall be considered assistive technology devices for purposes of this administrative regulation.

(2) Prior to purchase authorization, an audiological evaluation and hearing assistive technology assessment shall be completed by a licensed audiologist or other qualified professional communication specialist consistent with current professional standards.

(3) Recommendations for hearing aids or related technology shall identify the device type and features required to address vocationally relevant communication needs and shall be consistent with the most cost-effective device that meets those needs.

(4) Cochlear implants (CI) and bone-anchored hearing systems (BAHS) shall be considered medical restoration services subject to the requirements of Section 7 of this administrative regulation.

Section 5. Services for Individuals Who Are Deaf, Hard of Hearing, or Deafblind.

(1) For individuals who are deaf, hard of hearing, or late-deafened, the office shall obtain:

(a) A comprehensive audiological evaluation; and

(b) A communication assessment addressing functional communication needs relevant to home, training, community, and employment settings.

(2) When an individual has a diagnosis or indication of dual sensory loss, the office shall obtain a visual examination by a licensed optometrist or a physician skilled in diseases of the eye.

(3) When visual pathology or restricted visual fields are identified, referral to an ophthalmologist shall be made.

(4) Hearing Assistive Technology and Medical Referral.

(a) Hearing aids and other assistive listening devices shall be authorized in accordance with Section 4 of this administrative regulation.

(b) A recommendation for hearing aids shall be made by a qualified audiologist or other licensed professional authorized under state law to perform hearing aid evaluations.

(c) Individuals presenting symptoms of ear pathology or conductive hearing loss shall be referred to a physician skilled in diseases of the ear.

(5) Coordination of Services.

(a) Interpreter and communication access services shall be provided in accordance with Section 14 of this administrative regulation.

(b) Assistive technology, rehabilitation technology, or environmental communication supports shall be considered when required to enable the individual to participate in assessments, training, or employment.

(c) The office shall collaborate with educational programs, community agencies, and employers to identify appropriate communication supports needed for participation in vocational rehabilitation services or for successful performance of job functions.

Section 6. Wheelchairs and Mobility Devices.

(1) Wheelchairs, scooters, seating systems, and other wheeled mobility devices may be provided as assistive technology services when necessary for an individual to participate in vocational rehabilitation services or to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Wheelchair services may be provided only to individuals who:

(a) Have been accepted for services by the office in accordance with 781 KAR 1:020;

(b) the need for wheeled mobility is identified on the IPE; and

(c) wheeled mobility is necessary for the individual to access home, community, training, transportation, or work settings related to the employment outcome.

(3) An assistive technology specialist employed or contracted by the office shall participate in all wheelchair and mobility device assessments, recommendations, and purchasing decisions authorized under this Section.

(4) Wheelchair and mobility device services shall be based on an assessment conducted by an assistive technology specialist or other qualified provider that considers:

(a) The individual's functional limitations and seating and positioning needs;

(b) The tasks the individual must perform in home, training, community, and employment settings; and

(c) The environments in which the wheelchair will be used, including access to and within the home, workplace, and vehicle.

(5) When a wheelchair or mobility device will be used in conjunction with adapted transportation or a vehicle modification, the Driver Rehabilitation Technology Program shall be consulted prior to authorization. The office shall not authorize a device that is incompatible with the individual's current or planned transportation unless an alternative transportation plan is approved.

(6) The office may authorize wheelchair components, seating systems, accessories, or features not covered by comparable services and benefits when documented by the assistive technology specialist as necessary to meet disability-related vocational needs.

(7) The office shall not reimburse for any wheelchair, mobility device, or related component purchased or delivered prior to authorization unless approved through the exception process described in 781 KAR 1:020.

(8) Ownership and recovery of wheelchair equipment shall be governed by Section 3(4) of this administrative regulation.

(9) The office may consider typical life expectancies of wheelchair bases and components when determining eligibility for replacement, however, replacement decisions shall be based on vocational necessity, documentation of the equipment's condition, and the individual's functional or medical status. Typical life expectancies shall not serve as hard caps; individual need governs.

(10) The individual shall be responsible for routine maintenance, upkeep, and replacement of consumable items, including but not limited to tires, batteries, cushions, and brakes, unless an exception is approved in accordance with 781 KAR 1:020.

(11) The office may authorize repairs when necessary for the individual to participate in vocational rehabilitation services or to maintain competitive integrated employment.

(12) The office shall not authorize repairs necessitated primarily by misuse, abuse, neglect, or lack of reasonable maintenance unless approved through the exception process in 781 KAR 1:020.

Section 7. Physical and Mental Restoration Services.

(1) Physical and mental restoration services may be provided when necessary to correct, substantially modify, or stabilize a physical or mental condition that constitutes a substantial impediment to employment, and when required for the individual to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Allowable physical and mental restoration services may include diagnostic and treatment services, prosthetic and orthotic devices, medication management, mental health services, and other restoration services permitted under 34 C.F.R. 361.5, when vocationally necessary.

(3) Physical and mental restoration services shall be authorized only when:

(a) The condition is stable, slowly progressive, or expected to improve with treatment in a manner relevant to the employment outcome;

(b) Services are prescribed, provided, and supervised by licensed or otherwise qualified medical or mental health professionals; and

(c) The service is documented as vocationally necessary for the specific employment outcome identified in the IPE.

(4) Limitations. The office shall not authorize:

(a) Elective or cosmetic medical or surgical procedures, unless medical documentation demonstrates the procedure is necessary for the individual to achieve or maintain the employment outcome;

(b) Medical or surgical procedures, implants, transplants, or devices that are not approved by the United States Food and Drug Administration (FDA) for the intended use; or

(c) Procedures, equipment, or treatments that lack evidence of effectiveness in improving functional capacities related to the individual's vocational needs.

(5) Out-of-State Services.

(a) Out-of-state physical or mental restoration services may be authorized only when:

1. The provider is in a geographic area that is routinely used and reasonably accessible for the individual;

2. The out-of-state service is more economical to the office; or

3. The procedure, mode of treatment, or qualified provider is not reasonably available in the Commonwealth.

(b) The maximum amount authorized for out-of-state services shall be governed by the rates established by the vocational rehabilitation program in the state where the services are provided, unless approved under the exception process in 781 KAR 1:020.

Section 8. Chiropractic Services.

(1) Chiropractic services may be provided when necessary to address a neuromusculoskeletal condition that constitutes a substantial impediment to employment and when treatment is expected to improve functional limitations that are vocationally relevant.

(a) Chiropractic services shall be time-limited and oriented toward achieving specific, vocationally relevant functional goals.

(b) Long-term maintenance, wellness, or preventive care that is not directly necessary for the employment outcome shall not be funded.

(2) Chiropractic services may be authorized only when:

(a) The need is identified in medical or chiropractic documentation and linked to the IPE; and

(b) The provider is licensed in the jurisdiction where services are delivered.

Section 9. Convalescent Care.

(1) Convalescent care may be provided as a physical restoration service when medically necessary to support short-term recovery following surgery, illness, or treatment, and when required for the individual to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Conditions for Provision. Convalescent care may be authorized only when:

(a) Recommended by the attending physician;

(b) Provided in a facility appropriately licensed in the jurisdiction; and

(c) The service is time-limited and necessary for recuperation directly related to achieving the employment outcome identified in the IPE.

(3) Convalescent care may be approved when one (1) or more of the following conditions are documented:

(a) The individual's home environment is not conducive to safe or adequate recuperation; or

(b) Use of a convalescent facility will reduce the cost of hospitalization, private duty care, or alternative forms of recovery support.

(4) Limitations.

(a) Convalescent care shall be short-term and shall not be authorized as long-term custodial care or maintenance care.

(b) Convalescent care shall not be authorized for conditions unrelated to the individual's disability-related vocational rehabilitation needs.

(c) The level of care shall not exceed that which is medically necessary for recuperation and return to vocational rehabilitation services or employment.

Section 10. Mental Restoration.

(1) Mental restoration services may be provided when necessary to correct, improve, or stabilize a mental or behavioral health condition that constitutes a substantial impediment to employment and when required for the individual to prepare for, obtain, maintain, or advance in competitive integrated employment or to participate in vocational rehabilitation services.

(2) Mental restoration services may be authorized only when:

(a) The services are directly related to the disability and vocational rehabilitation needs identified in the IPE or trial work plan;

(b) Services are prescribed, recommended, or supported by a qualified mental health professional; and

(c) The service provider meets the credentialing requirements established in subsection (5) of this Section.

(3) Mental restoration services shall be time-limited and oriented toward enabling the individual to participate in vocational rehabilitation services or to achieve or maintain the employment outcome.

(4) Long-term maintenance therapy, including ongoing counseling or medication management not directly tied to the vocational rehabilitation plan, shall not be authorized except when an exception pursuant to 781 KAR 1:020 is approved.

(5) Provider Qualifications: Mental restoration services shall be provided only by licensed psychiatrists and psychologists; licensed clinical social workers; certified psychologists with autonomous functioning; licensed psychological practitioner; licensed marriage and family therapists; licensed professional clinical counselors; or advanced practice registered nurses certified in psychiatric or mental health nursing. Mental restoration services may also be provided by associate-level licensed mental health professionals practicing under required state supervision.

(6) Psychosocial rehabilitation programs, including partial hospitalization, shall not be funded unless necessary for short-term stabilization essential to participating in vocational rehabilitation services and shall require prior approval by the office.

Section 11. Conditions Requiring Specialized Assessment.

(1) For individuals whose primary or secondary disabilities include learning disorders, morbid obesity, or addiction, the office may authorize assessment or restoration services only when necessary for participation in vocational rehabilitation services or to achieve the employment outcome identified in the IPE.

(2) Learning Disorders.

(a) Assessment or documentation of a learning disorder may be used to determine functional limitations relevant to the vocational goal.

(b) Existing educational documentation, including psychoeducational evaluations, individualized education programs, or other school-based assessments, may be accepted when sufficient to identify disability-related functional limitations.

(c) Additional diagnostic evaluations shall be authorized only when necessary to determine vocational rehabilitation needs.

(d) Services for individuals with learning disorders shall be limited to vocationally necessary interventions, including assistive technology, disability-related tutoring, or other restoration services permitted under Section 7.

(3) Morbid Obesity.

(a) Morbid obesity may be considered a disabling condition when it results in functional limitations that constitute a substantial impediment to employment.

(b) Eligibility and service decisions shall be based on current, documented functional limitations and not solely on weight, body-mass index, or medical diagnosis.

(c) Physical restoration services may be provided only when necessary to address disability-related functional limitations

affecting participation in vocational rehabilitation services or achievement of the employment outcome.

(d) Services shall not include elective weight-loss procedures unless medically necessary to achieve or maintain the employment outcome and consistent with Section 7 of this administrative regulation.

(4) Addiction.

(a) Addiction may constitute a substantial impediment to employment when associated functional limitations affect the individual's ability to prepare for, obtain, maintain, or advance in competitive integrated employment.

(b) Mental health or addiction treatment services may be authorized as mental restoration services only when necessary for the employment outcome and when provided by licensed professionals meeting Section 7 requirements.

(c) The office may require documentation from a treatment or recovery provider sufficient to demonstrate that the individual can participate safely and effectively in training, job placement, or employment support.

(d) Participation in treatment or recovery programs may be required when necessary for the individual to benefit from vocational rehabilitation services, and any such requirement shall be documented in the case record.

(e) The office may suspend or amend services when the individual is unable to participate in vocational rehabilitation services due to relapse or instability, consistent with informed choice and case documentation requirements.

Section 12. Nursing Services.

(1) Nursing services, including private duty nursing home health aide services, or similar supports, may be provided as a physical restoration service when medically necessary to enable the individual to participate in vocational rehabilitation services or to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Nursing services shall be authorized only when:

(a) A written recommendation is provided by the attending physician or other licensed medical provider;

(b) Services are time-limited and necessary to support recovery or stabilization related to the employment outcome identified in the IPE; and

(c) Services are delivered by nursing personnel or aides who are appropriately licensed or credentialed in the jurisdiction where services are provided.

(3) Limitations.

(a) Nursing services shall be short-term in nature and shall not be authorized as long-term custodial maintenance, or attendant care.

(b) When nursing or attendant care is expected to extend beyond a short-term recuperative period, the service shall be considered under convalescent care in Section 9 of this administrative regulation or referral to appropriate community or public programs.

(c) Nursing services shall not be provided for conditions that are unrelated to the individual's disability-related vocational rehabilitation needs.

(4) Nursing services may be authorized in combination with other physical or mental restoration services, maintenance, or transportation when necessary to support participation in vocational rehabilitation services.

Section 13. Acute or Emergency Medical Conditions.

(1) Acute or emergency medical condition services may be provided when necessary to prevent an immediate or direct risk to the achievement of the employment outcome identified in the IPE, and only when the individual is already receiving vocational rehabilitation services at the time of onset of the condition.

(2) For purposes of this administrative regulation, an acute or emergency medical condition means an accident, illness, or health event with sudden onset and relatively short duration that requires urgent attention and that, if left untreated, would pose a serious hazard to the individual's ability to prepare for, obtain, maintain, or advance in competitive integrated employment.

(3) Acute or emergency medical treatment may be authorized only when all the following conditions are met:

(a) The individual was determined eligible for vocational rehabilitation services and had an approved IPE prior to the onset of the acute condition;

(b) The untreated condition would constitute a direct hazard to the individual's ability to achieve, maintain, or regain the employment outcome identified in the IPE; and

(c) The service is prescribed, provided, or supervised by a licensed medical professional appropriate to the condition.

(4) Acute or emergency medical services authorized under this Section are intended to be short-term and shall not exceed sixty (60) consecutive days for any single accident, illness, or episode, including necessary follow-up examinations or treatment, postoperative care, and any medically required intensive care during the acute period consistent with 781 KAR 1:020.

(5) Services under this Section shall not be provided when:

(a) The condition is chronic, stable, or requires ongoing medical management unrelated to the vocational objective;

(b) The service constitutes general health care or long-term maintenance; or

(c) The condition does not present a demonstrable risk to the employment outcome.

Section 14. Interpreter and Communication Access Services.

(1) Interpreter and communication access services may be provided to an eligible individual when necessary to ensure effective communication between the office and an individual, or to enable participation in vocational rehabilitation services or activities required to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Interpreter and communication access services shall be delivered by providers who possess the certification, licensure, or credentialing appropriate to the assignment and the individual's communication needs.

(3) The office shall provide the individual with information necessary to make an informed choice regarding interpreter qualifications, style, skill level, and certification appropriate to the assignment and communication preference of the individual.

(4) Interpreters and communication access providers shall comply with applicable professional codes of ethics, including requirements related to confidentiality and impartiality.

Section 15. Transportation Services.

(1) Transportation services may be provided to an individual when necessary for the individual to participate in a vocational rehabilitation service and shall not be provided as the sole service on the IPE.

(2) Transportation shall be the most reasonable and cost-effective option available that meets the individual's disability-related vocational needs.

(3) Transportation shall be time-limited and restricted to the period in which the individual is actively participating in the related vocational rehabilitation service, training, or activity.

(4) The office does not reimburse for travel when the individual uses a personal vehicle owned by someone else unless required for vocational reasons.

Section 16.[~~Section 2.~~] Driver Rehabilitation Technology Services.

(1) Driver rehabilitation technology services may be provided if[~~:~~]

[~~(a)~~] personal[~~Personal~~] transportation is required to meet the job goals specified on the IPE or is necessary to participate in other services required to achieve the employment objective identified on the IPE[~~individualized plan for employment;~~]

[~~(b)~~] [~~The individual meets the economic need qualifications established in 781 KAR 1:030; and~~]

[~~(c)~~] [~~The individual is within a category that is presently being served in the Order of Selection as established in 781 KAR 1:030~~].

(2) Driver training and extended driver evaluation may be provided if:

(a) The services are recommended by a qualified medical or rehabilitation professional, which may include a physician, an

occupational therapist with driver rehabilitation training, a certified driver rehabilitation specialist, or another provider who meets applicable state licensure or certification requirements for driver rehabilitation services;

(b) If vehicle modification is required, the [~~applicant or eligible~~]individual meets the criteria for vehicle modification, as established in Section 18[~~3~~] of this administrative regulation;

(c) The [~~applicant or eligible~~]individual agrees to obtain additional practice as recommended by a certified driver rehabilitation specialist; [~~and~~]

(d) The [~~applicant or eligible~~]individual owns or has access to an appropriate vehicle both during and upon completion of driver's training;[~~.~~]

(e) The individual possesses, at a minimum, a valid driver's permit before any referral for driver evaluation is provided; and

(f) A qualified medical or rehabilitation professional, which may include a physician, an occupational therapist with driver rehabilitation training, a certified driver rehabilitation specialist, or another provider who meets applicable state licensure or certification requirements for driver rehabilitation services, has completed a driver evaluation and identified the type and amount of driver training and any needed adaptive driving equipment or vehicle modification.

(3) Driver rehabilitation technology services may be provided to an [~~applicant or eligible~~]individual who does not meet the requirements of subsection (2) of this section if the office[~~the Director of Field Services or designee~~] determines:

(a) That documentation exists that failure to provide the services will preclude the successful completion of the individualized plan for employment; or

(b) The provision of the service would result in a substantial cost savings to the office.

(4) Driver rehabilitation technology services shall not include general driver education or permit-preparation courses that are not directly related to the individual's disability and vocational rehabilitation needs.

(5) Transport evaluations may be provided when an individual will not drive but requires evaluation of safe entry to, exit from, or transport in a private vehicle to participate in vocational rehabilitation services or to obtain or maintain competitive integrated employment.

(6) Services requiring access to a vehicle for evaluation or training may be authorized only when the office determines that the vehicle to be used is safe and appropriate for the recommended evaluation, training, or adaptive equipment.

(7) The office shall not purchase, lease or otherwise provide a motor vehicle for any individual. Vehicle purchase is not an allowable rehabilitation service and shall not be authorized as assistive technology, transportation, or as any other good or service under this administrative regulation. For purposes of this section, the term vehicle does not include wheelchairs, scooters, or any other mobility devices used as personal medical equipment under Section 6.

Section 17. Bioptic Driving Services.

(1) Bioptic driving services may be provided when independent transportation is vocationally necessary, the individual meets the visual and statutory requirements of KRS 186.576 to 186.579, and bioptic driving is identified as part of the employment strategy in the IPE.

(2) Bioptic driver rehabilitation services may include, as appropriate:

(a) Instruction in the use of the bioptic telescopic device;

(b) Preparatory or pre-driver training consistent with statutory and regulatory requirements;

(c) Behind-the-wheel driver rehabilitation training provided by a certified driver rehabilitation specialist or a qualified employee of the office; and

(d) On-road evaluation to determine readiness for driving skills testing and licensing.

(3) The office shall review annual comprehensive visual examination reports for licensed bioptic drivers as required by KRS 186.579(3)(b). If the report indicates instability or deterioration of visual function, the office may:

(a) Require additional visual assessment; and.

(b) Notify the Kentucky Transportation Cabinet Medical Review Board if the individual no longer meets statutory visual requirements.

(4) When a qualified vision specialist recommends removal of a daytime-only driving restriction, the office shall:

(a) Arrange the nighttime driving evaluation required by KRS 186.579(3)(b);

(b) Coordinate scheduling of any required nighttime road test with the Kentucky State Police; and

(c) Transmit evaluation results to the Kentucky Transportation Cabinet for licensing determination.

(5) The office may authorize bioptic driving services through programs that meet applicable state licensure or certification requirements. Individuals may also obtain bioptic services at their own expense, provided all statutory licensing requirements are met.

Section 18.[~~Section 3.~~] Vehicle Modification Services.

(1) Modification of a private vehicle shall be authorized if the[~~eligible~~] individual:

(a) Completes a driver evaluation and vehicle modification assessment by a rehabilitation technology specialist; and

(b) Obtains a vehicle modification prescription from a certified driver rehabilitation specialist.

(2) Modification of a private vehicle shall be provided on the most cost-effective vehicle necessary for the individual's personal transportation for employment, using the most cost-effective means of modification as documented in the rehabilitation technology assessment.

(3) Recoverable, nonpermanent modifications shall be provided for private vehicles if available and cost-effective. Permanent modifications shall be considered only when recoverable options cannot meet the individual's disability-related vocational needs.

(4) A vehicle modification shall not be performed on a vehicle other than that recommended by the office or qualified vendor[~~a certified driver rehabilitation specialist~~], unless:

(a) The vehicle can be modified to meet the individual's needs; and

(b) The individual assumes all costs associated with the modification of the vehicle in excess of the cost of modification of the recommended vehicle.

(5) Before a non-recoverable, permanent vehicle modification will be approved, an [~~eligible~~]individual shall obtain a valid Kentucky operator's license or, for nondriver passenger modification, documentation demonstrating vocational necessity for safe transportation.

(6) A non-recoverable, permanent vehicle modification costing in excess of $5,000 shall not be delivered to the [~~eligible~~]individual unless the [~~eligible~~]individual provides proof of insurance for the replacement cost of the vehicle and vehicle modifications.

(7) A vehicle modification costing in excess of $10,000 shall not be provided unless the [~~eligible~~]individual:

(a) Has a vocational objective of competitive integrated employment;

(b) Is employed, actively seeking work, or has a reasonable expectation of beginning work within six (6) months; and

(c) The office[~~Director of Field Services or designee~~] determines that the modification has a direct relationship to the employment objective and that failure to provide the modification would prevent the successful achievement of the employment objective or would result in a significant cost savings to the office.

(8) Vehicle modifications in excess of $10,000 shall not be provided on a used vehicle unless:

(a) The vehicle is no more than two (2) years old;

(b) The odometer on the vehicle reads no more than 50,000 miles; and

(c) An assistive technology specialist inspects the vehicle and determines that it is appropriate for the required modification.

(9) Vehicle modifications shall not be performed on a leased vehicle unless:

(a) An assistive technology specialist inspects the vehicle and determines that it is appropriate for the required modification;

(b) Written permission for the specific modification is obtained from the leasing company; and

(c) Recoverable, nonpermanent equipment is used.

(10) The [~~eligible~~]individual shall be solely responsible for providing maintenance, repair, and upkeep to the modifications as established in any relevant warranties.

(11) The [~~eligible~~]individual shall pay for any maintenance, service, and repairs for modifications not under warranty except as provided in Sections 19 and 20[~~Section 4(2)~~] of this administrative regulation.

Section 19.[~~Section 4.~~] Upgrade and Repair of Vehicle Modifications.

(1) An upgrade to a vehicle modification shall not be provided unless:

(a) The upgrade is required due to a medically documented change in status or function that necessitates a change in driving equipment or vehicle chassis;

(b) The [~~eligible~~]individual is employed in a competitive integrated employment setting; and

(c) The [~~eligible~~]individual completes a driver evaluation or non-recoverable, permanent vehicle modification assessment[~~ as established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010~~].

(2) If the vehicle upgrade involves the purchase of a driving system, the vehicle shall be inspected by the office[~~an assistive technology specialist~~] and found:

(a) To be appropriate for the proposed modification; and

(b) To meet all manufacturer requirements for the proposed driving system.

(3) A repair to a vehicle modification shall be provided if:

(a) The [~~eligible~~]individual is currently competitively employed in an integrated setting, as defined in 34 C.F.R. 361.5(c)(9);

(b) The repair is not required as a result of the [~~eligible~~]individual's negligence, misuse, abuse of the equipment, or failure to provide proper maintenance of the equipment;

(c) The [~~eligible~~]individual provides the office with maintenance records for the vehicle and vehicle modifications;

(d) The office[~~An assistive technology specialist~~]:

1. Inspects the maintenance records of the vehicle and vehicle modifications;

2. Determines that the maintenance has met manufacturer requirements;

3. Inspects the vehicle and modifications;[~~ and~~]

4. Determines that is reasonable to repair the modification; and

5. Determines that the vehicle will be safe to operate once repaired; and

(e) The [~~eligible~~]individual completes a driver evaluation by a certified driver rehabilitation specialist and obtains a non-recoverable, permanent vehicle modification prescription from the specialist, if requested by the office[~~ as established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010~~].

(4) An upgrade or repair to a vehicle modification costing in excess of $10,000 shall not be provided unless the office[~~Director of Field Services or designee~~] determines that failure to provide the update or repair would prevent the successful maintenance of competitive integrated employment or would result in a significant cost savings to the office.

(5) An upgrade or repair may be provided to an [~~eligible~~]individual who does not meet the requirements of this section if the office[~~Director of Field Services or designee~~] determines:

(a) That documentation exists that failure to provide the services will preclude the successful achievement or maintenance of competitive integrated employment under[~~completion of~~] the individualized plan for employment; or

(b) The provision of the service would result in a substantial cost savings to the office.

Section 20.[~~Section 5.~~] Repeat Vehicle Modifications.

(1) Except as provided in this section, or as approved under the exception process in 781 KAR 1:020, the office shall not provide more than one (1) vehicle modification per [~~eligible~~]individual.

(2) The office shall provide a repeat vehicle modification if:

(a) The [~~eligible~~]individual is currently working in a competitive integrated employment setting, as defined in 34 C.F.R. 361.5(c)(9);

(b) The [~~eligible~~]individual has a five (5) year work history since the last modification and has been working consistently for a minimum of two (2) years;

(c) The previously modified vehicle has at least 105,000 additional miles on it since the last modification;

(d) An assistive technology specialist inspects the vehicle and modifications and recommends replacement of the vehicle or modifications;

(e) The [~~eligible~~]individual provides the office with a maintenance record for the vehicle and modifications that demonstrates that the maintenance has been provided according to manufacturer requirements;

(f) The [~~eligible~~]individual completes a driver evaluation by a certified technology specialist and obtains a vehicle modification prescription from the specialist; and

(g) The office[~~Director of Field Services or designee~~] determines that failure to provide the repeat modification will prevent successful maintenance of competitive integrated employment or would result in a significant cost savings for the office.

Section 21.[~~Section 6.~~] Property Modification.

(1) Permanent, nonrecoverable modification to a private home, business, or property may be provided if:

(a) The office[~~A qualified rehabilitation counselor~~] determines the property modification[~~it is~~] essential to achieve the employment objective of the [~~eligible~~]individual;

(b) [~~The eligible individual meets economic needs qualifications established in 781 KAR 1:030;~~]

[~~(c)~~] The office[~~A qualified rehabilitation counselor~~] determines that failure to provide the modification will preclude the successful achievement of the employment goal;

(c)[~~(d)~~] A property modification assessment identifying the most effective and lowest-cost modification that will meet the individual's disability-related needs is completed by the office[~~an assistive technology specialist~~];

(d)[~~(e)~~] The [~~eligible~~]individual or family member owns the property to be modified and is current on any mortgage payments, and has owned the property for at least two (2) years unless an exception is approved under subsection (4) of this section; and

(e)[~~(f)~~] The [~~eligible~~]individual has not received permanent, nonrecoverable modifications to a home from the office in the past.[~~; and~~]

[~~(g)~~] [~~The eligible individual is within a category that is presently being served in the order of selection as established in 781 KAR 1:030~~].]

(2) Property modifications in excess of $30,000 or twenty (20) percent of the Property Value Administrator (PVA) assessment value of the home or property, whichever is less, shall not be provided.

(3) Property modifications shall be limited to the most cost effective means of safely addressing the disability needs of the [~~eligible~~]individual as required for employment and shall:

(a) Be recoverable, nonpermanent modifications[~~, if possible~~];

(b) Be cost effective;

(c) Provide access to one (1) entrance to and exit from the home, business, or property;

(d) Provide access to entrance to and exit from one (1) bathroom area and use of the facilities in that bathroom;

(e) Provide access to entrance to and exit from one (1) bedroom area; and

(f) Allow access to corridors necessary to access the bathroom and entrance and exit area of the property.

(4) A property modification shall not be provided when a qualified contractor determines that the existing structure cannot safely support the modification without structural reinforcement, reconstruction, or other improvements prohibited under subsection (5) or requiring upgrades to underlying systems or structures as described in subsection (6).

(5)[~~(4)~~] Property modifications shall not be provided to homes or properties purchased within the last two (2) years unless there is medical documentation to support a finding that there has been a

significant change in status or function of the [~~eligible~~]individual that has occurred since the initial purchase of the property, and that finding could not have been anticipated when the home or property was purchased.

(6)[~~(5)~~] Property modifications shall not include structural additions to existing properties or the purchase of new property. Structural additions include any improvement that increases the footprint or square footage of the structure.

(7)[~~(6)~~] The office shall not restore modified property to its original condition or upgrade areas of the property not affected by the modification into compliance with current local building codes.

(8) All work funded by the office shall comply with applicable building codes, but the property owner shall be responsible for upgrades required to bring underlying structures or systems into compliance before a modification is undertaken.

(9)[~~(7)~~]

(a) A request from the individual to make changes or additions to the recommendation of the office [~~assistive technology specialist~~]shall be approved in writing by the office[~~specialist~~] prior to being implemented in order to ensure that the modification does not affect the accessibility of the project; and

(b) The cost of all changes or additions shall be assumed by the [~~eligible~~]individual.

(10)[~~(8)~~] The [~~eligible~~]individual shall provide maintenance, repair, and upkeep to the modifications as required for relevant warranties.

(11)[~~(9)~~] The [~~eligible~~]individual shall be solely responsible for maintenance, service, and repairs for modifications not under warranty.

(12)[~~(10)~~] Property modifications may[~~shall~~] be provided to an [~~eligible~~]individual that does not meet all the requirements of this section if the office[~~Director of Field Services or designee~~] determines that failure to provide the modification would prevent the successful achievement of the vocational objective or would result in a significant cost savings to the office. Exceptions shall not be granted for modifications requiring structural reinforcement, additions, or upgrades to underlying structures or systems prohibited under subsections (5) or (6).

Section 22. Community Rehabilitation Program ("CRP") and Supported Employment Services.

(1) The office may purchase community rehabilitation services from a community rehabilitation program when such services are necessary for an individual to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) CRP services shall be consistent with the IPE and shall be provided only when they address disability-related vocational needs.

(3) CRP services may include, as appropriate:

(a) Comprehensive vocational evaluation;

(b) Limited assessment services;

(c) Adjustment services;

(d) Employment and retention services; and

(e) Supported employment services for individuals with the most significant disabilities.

(4) Adjustment services shall be time-limited and shall not be used as long-term or permanent employment. The expected duration generally shall not exceed six (6) months from the authorization date unless an exception is approved in accordance with 781 KAR 1:020.

(5) Employment and retention services may include job development, job placement, initial job coaching, and time-limited follow-up supports when necessary to achieve or maintain a competitive integrated employment outcome.

(6) Supported employment services may be provided to individuals with the most significant disabilities through community rehabilitation programs or other qualified providers, consistent with 34 C.F.R. 361.5(c), 361.48(b), 361.55, and 34 C.F.R. Part 363.

(7) Supported employment services shall be:

(a) Provided in competitive integrated employment and shall be designed to achieve and maintain a competitive integrated employment outcome;

(b) Time-limited; and

(c) Provided in conjunction with ongoing support services and extended services to be provided by another public or private entity after vocational rehabilitation services are concluded.

(8) Community Rehabilitation Program Eligibility and Payment. To receive payment as a community rehabilitation program under this section, an entity shall:

(a) Meet the federal definition of a community rehabilitation program in 34 C.F.R. 361.5(c);

(b) Be approved by the office as a vendor in accordance with state procurement requirements; and

(c) Receive authorization for the services provided.

(9) CRPs shall provide written reports and documentation sufficient to support case decisions and payment.

Section 23. Post-Secondary Training and Transition Services.

(1) Post-secondary education and post-secondary transition program services may be provided when required to achieve the employment outcome identified in the IPE and when consistent with the individual's strengths, interests, abilities, and informed choice.

(2) Post-secondary transition program services may be provided if:

(a) The individual meets age and eligibility criteria; and

(b) Participation in the program is necessary to achieve the employment outcome identified in the IPE.

(3) Allowable services may include, as appropriate:

(a) Tuition, required fees, books, and supplies;

(b) Training-related transportation and maintenance consistent with Sections 15 and 31(2) of this administrative regulation;

(c) Classroom accommodations and auxiliary aids, including interpreters, note-takers, adaptive materials, and assistive technology;

(d) Tutorial services and educational assistance consistent with Section 29 of this administrative regulation; and

(e) Disability-related supports necessary for participation and progress.

(4) The office shall coordinate post-secondary education funding with federal student aid and other available funding sources before authorizing payment for post-secondary education.

(5) Support for post-secondary training shall be limited to the most cost-effective program that meets the individual's vocational needs and shall not be authorized when training is not clearly linked to an employment outcome.

(6) The individual shall maintain satisfactory academic or training progress consistent with institutional standards and expectations documented in the IPE. The office may authorize continued support for one (1) additional term when justified and documented.

(7) Recognized secondary or post-secondary credentials and measurable skill gains for individuals receiving training services shall be documented, in accordance with 34 C.F.R. 361.155.

Section 24. Job Placement Services.

(1) Job placement services may be provided when necessary to achieve the employment outcome in the IPE.

(2) Job placement services may be delivered by office staff, community rehabilitation programs, supported employment providers, on-the-job training providers, or other qualified vendors, consistent with informed choice.

(3) Job placement services may include, as appropriate:

(a) Job development and job leads;

(b) Assistance with job applications and interviews;

(c) Identification of reasonable accommodations;

(d) Coordination of supports needed to begin employment; and

(e) Other services necessary to obtain competitive integrated employment.

(4) Employment obtained through job placement services shall occur in the most integrated setting appropriate and shall meet the definition of competitive integrated employment in 34 C.F.R. 361.5.

(5) Self-employment may be considered a suitable employment outcome if it meets the definition of competitive integrated employment in 34 C.F.R. 361.5 and is developed and approved in accordance with 781 KAR 1:020.

(6) Home-based employment, including telework or remote work, may be considered suitable if it meets competitive integrated employment requirements. Home-based work shall not be considered self-employment unless the individual owns and operates the business.

Section 25. Post-Employment Services.

(1) Eligibility and status.

(a) Post-employment services may be provided only to individuals who:

1. Have been determined eligible for vocational rehabilitation services;

2. Have achieved an employment outcome; and

3. Require limited vocational rehabilitation services to maintain, regain, or advance in competitive integrated employment.

(b) A re-determination of eligibility is not required for post-employment services.

(c) Post-employment services shall be provided under an amended IPE, developed and implemented in accordance with 34 C.F.R. 361.45 and 361.46.

(2) Post-employment services shall:

(a) Consist of one (1) or more vocational rehabilitation services permitted under 34 C.F.R. 361.48(b);

(b) Be limited in scope and duration; and

(c) Address rehabilitation needs that do not require a complex or comprehensive provision of services.

(3) Post-employment services may include, as appropriate, maintenance of assistive technology, short-term training or support to address changes in job duties, or other time-limited services necessary to maintain, regain, or advance in competitive integrated employment.

(4) Post-employment services shall not be used to provide a comprehensive new sequence of services equivalent to initial vocational rehabilitation services. If comprehensive services are required, the office shall:

(a) Conclude post-employment services;

(b) Close the existing case in accordance with federal requirements; and

(c) Assist the individual to apply for a new case, including assessment to determine eligibility and development of a new IPE, if appropriate.

(5) Post-employment services shall be provided only under an IPE amendment that:

(a) Identifies the employment outcome being maintained, regained, or advanced;

(b) Specifies the post-employment services to be provided; and

(c) Describes how the services are necessary to maintain, regain, or advance in competitive integrated employment.

(6) Post-employment services should be initiated and completed, when feasible, prior to case closure and reporting of the employment outcome to the Rehabilitation Services Administration.

(a) A case that has been closed in competitive integrated employment and reported to the Rehabilitation Services Administration shall not be re-opened solely for the purpose of providing post-employment services.

(b) If an individual whose case has been closed in competitive integrated employment later requires vocational rehabilitation services to maintain, regain, or advance in employment, the individual shall apply for services and be evaluated for eligibility in accordance with 781 KAR 1:020 and federal requirements.

Section 26. On-The-Job Training Services.

(1) On-the-job training (OJT) services may be provided when:

(a) The individual has been determined eligible for vocational rehabilitation services;

(b) The training is necessary to achieve the employment outcome identified in the IPE; and

(c) The employer agrees to hire the individual as an employee for the duration of the training.

(2) An OJT agreement shall be executed between the office, the employer, and the individual and shall describe the duties, duration, supervision, and reimbursement terms.

(3) The office may:

(a) Reimburse the employer for a portion of wages paid during training, consistent with allowable reimbursement rates and conditions;

(b) Authorize training for the period reasonably required to learn the essential job duties; and

(c) Provide related vocational rehabilitation services needed to support successful completion of the training.

(4) The employer shall.

(a) Comply with all applicable wage, hour, and nondiscrimination laws;

(b) Provide wage and benefit parity with similarly situated employees; and

(c) Provide regular progress evaluations as required by the office.

(5) OJT shall lead to competitive integrated employment and shall not be authorized when that outcome is not expected.

Section 27. Work Experience Program Services.

(1) Work Experience Program (WEP) services may be provided when necessary to:

(a) Determine vocational potential;

(b) Develop work behaviors, skills, or tolerances; or

(c) Support the employment outcome identified in the IPE.

(2) WEP Services may include, as appropriate:

(a) Orientation in work readiness or work behaviors;

(b) Slot placement in a community worksite for supervised work experience; and

(c) Job placement assistance needed to secure competitive integrated employment.

(3) WEP positions shall be temporary, shall not displace existing employees, and shall comply with applicable wage and labor requirements.

(4) WEP stipends are paid to participants and shall not constitute wages or create an employer–employee relationship with the office.

(5) WEP services shall be limited to the level and duration necessary to accomplish the objectives identified in the IPE and may be extended only as approved in accordance with 781 KAR 1:020.

Section 28. Pre-Employment Transition Services.

(1) Pre-employment transition services (Pre-ETS) shall be provided to students with disabilities in accordance with 29 U.S.C. § 733; 34 C.F.R. 361.48; and in coordination with state and local educational agencies responsible for the provision of special education or related services under the Individuals with Disabilities Education Act.

(2) The office shall provide or arrange for the provision of Pre-ETS to students with disabilities who are eligible or potentially eligible for vocational rehabilitation services. Pre-ETS may be provided individually or in groups.

(3) Pre-ETS shall include the following required activities:

(a) Job exploration counseling;

(b) Counseling on opportunities for enrollment in comprehensive transition and post-secondary programs;

(c) Workplace readiness training to develop social skills and independent living skills;

(d) Instruction in self-advocacy, including peer mentoring; and

(e) Work-based learning experiences in competitive, integrated settings to the maximum extent possible.

(4) Potentially eligible students may receive only the required Pre-ETS described in subsection (3) of this Section and auxiliary aids or services necessary to enable participation in those activities.

(5) Additional vocational rehabilitation services, including maintenance, transportation, job coaching, or rehabilitation technology, may be provided only after the student applies for and is determined eligible for vocational rehabilitation services and has an approved IPE.

(6) Work-based learning experiences shall occur in competitive integrated settings to the maximum extent possible and shall comply with applicable child labor, wage, and safety requirements.

(7) Pre-ETS funds may be used to provide stipends directly to students when the payment is part of a structured work-based learning experience or program delivery by the office, and when the

payment does not replace wages otherwise due from an employer or create an employer-employee relationship with the office.

(8) A potentially eligible student who has not applied for vocational rehabilitation services shall not be subject to the order of selection. A student who applies for services shall be subject to the order of selection consistent with federal requirements.

Section 29. Tutorial Services and Educational Assistance.

(1) Tutorial services and educational assistance may be provided when necessary for an individual to participate in or benefit from training or education required for the employment outcome identified in the IPE.

(2) Disability-related tutoring may be authorized when:

(a) The individual has a documented disability that results in functional limitations affecting learning or academic performance; and

(b) The tutoring is designed to address those limitations or to teach compensatory strategies needed to succeed in the training program.

(3) Remedial instruction and content tutoring may be authorized when:

(a) the individual requires basic skill development or assistance in a specific course to complete training necessary for the employment outcome; and

(b) comparable services and benefits, such as adult education or institutional tutoring services, are unavailable, inadequate, or would result in unreasonable delay.

(4) Educational assistance services may be provided when non-instructional support is required for the individual to access or participate in training, post-secondary education, or other vocational services included on the IPE. Educational assistance may include, as appropriate:

(a) reading or recording of course materials;

(b) typing or transcription of assignments;

(c) note-taking or page-turning;

(d) locating or organizing reference materials; or

(e) similar supports required for full participation.

(5) Tutorial and educational assistance services shall be coordinated, to the maximum extent appropriate, with accommodations and auxiliary aids provided by the training institution or other comparable services and benefits.

Section 30. Independent Living Services and Older Individuals Who Are Blind Services.

(1) Independent Living (IL) and Older Individuals Who Are Blind (OIB) services may be provided to assist individuals who are blind or visually impaired to improve or maintain their ability to function independently. An employment outcome shall not be required for eligibility for IL or OIB services.

(2) Eligibility, service categories, and allowable expenditures for IL and OIB shall be consistent with applicable federal grant requirements. IL and OIB services must be non-duplicative and coordinated with vocational rehabilitation services.

(3) For individuals who receive both vocational rehabilitation and IL or OIB services, the Rehabilitation Counselor for the Blind and the IL or OIB counselor shall coordinate assessment, planning, and service delivery.

(4) Bioptic-related services provided solely for independent living purposes shall comply with KRS 186.576 to 186.579 and applicable federal program requirements. Payment for bioptic devices, private driver training, licensing fees, or other driving-related costs under the IL or OIB programs shall be at the discretion of the office, consistent with available program funds and allowable cost categories under 34 C.F.R. Part 367.

(5) Services and adaptive devices under IL and OIB programs shall be subject to the availability of funds and any federal grant conditions governing those programs.

Section 31. Other Allowable Services.

(1) Personal Assistance Services.

(a) Personal assistance services may be provided when necessary for participation in vocational rehabilitation services or to maintain competitive integrated employment.

(b) Personal assistance services shall be provided only while the individual is receiving other vocational rehabilitation services or is engaged in employment consistent with the IPE.

(c) Long-term ongoing personal assistance needs shall be referred to appropriate community or Medicaid-funded programs.

(d) Personal assistance services shall be excluded from financial participation but remain subject to comparable services and benefits.

(2) Maintenance.

(a) Maintenance may not be used to fund an individual's normal living expenses.

(b) Maintenance may include short-term room and board, or other subsistence costs required to participate in vocational rehabilitation services.

(c) Payments in such circumstances may not exceed three months.

(3) Medication.

(a) Medication, as used in this Section, means prescribed pharmaceutical agents and related medical supplies provided for a limited duration to support the individual's participation in other vocational rehabilitation services.

(b) Medication may be provided when necessary for the individual to participate in or benefit from a substantial vocational rehabilitation service, and when comparable services and benefits are unavailable or would result in unreasonable delay.

(c) Medication shall not be provided as a stand-alone service or for long-term maintenance treatment of chronic conditions.

(4) Occupational Licenses, Examinations, Tools, Equipment, and Supplies.

(a) The office may purchase occupational licenses, certification or board examinations, required permits, and related documentation necessary for an individual to enter or maintain employment consistent with the IPE.

(b) The office may purchase tools, equipment, supplies, or initial stock when essential for participation in training or for initial employment, and when such items are not routinely provided by the employer or training program. "Initial stock" means the minimum consumable materials required to begin the job or training activity and does not include ongoing inventory or replenishment.

(c) The office shall pay only initial fees for licensure, certification, or union membership unless additional payments are necessary to complete the vocational rehabilitation plan.

(d) The office shall not purchase voluntary or optional memberships unless they are required for the specific employment outcome.

(5) Ownership and Recovery of Tools and Equipment.

(a) Items purchased by the office under subsection (4) shall remain the property of the office until the individual successfully completes training or retains employment and closed as successfully employed.

(b) If items are no longer needed or the individual does not complete the training or employment objective, the office may recover items in reusable condition and reassign them to other individuals.

(c) The office shall not purchase deluxe, optional, or premium versions of tools or equipment when a standard model is adequate.

(d) The office shall not replace lost, stolen, or damaged items except where loss occurred through no fault of the individual and with supporting documentation.

(6) Services to Family Members.

(a) Services to family members may be provided when necessary for the individual to participate in assessments, vocational rehabilitation services, or to carry out the IPE.

(b) Such services shall be provided only when failure to provide them would reasonably be expected to delay, interrupt, or prevent achievement of the employment outcome of the individual, and when they are not otherwise readily available through existing community resources.

(7) Other Goods and Services.

(a) The office may authorize goods and services not specifically listed in this administrative regulation when necessary for an individual to participate in vocational rehabilitation services or to

achieve the employment outcome identified in the IPE, consistent with 34 C.F.R. 361.48(b).

(b) Goods or services that are personal in nature, unrelated to vocational rehabilitation, or primarily for general health, wellness, or household support shall not be authorized.

(c) The office shall not provide goods or services that constitute long-term maintenance or supports more appropriately provided through other public programs or community resources.

(d) Goods and services authorized under this subsection shall be documented in the case record and must be directly related to the individual's vocational rehabilitation needs.

VICKIE WISE, Deputy Secretary

APPROVED BY AGENCY: December 30, 2025

FILED WITH LRC: December 31, 2025 at 12:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 26, 2026, at 1:00 pm, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, Kentucky 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brooke McDaniel
Subject Headings: Disability and Disabilities, Workforce Development, Education
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation outlines the requirements for receiving goods and services from the Office of Vocational Rehabilitation (OVR) in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq.
(b) The necessity of this administrative regulation: KRS 151B.195 requires OVR to promulgate administrative regulations outlining the administration of vocational rehabilitation services in Kentucky in compliance with the federal Rehabilitation Act KRS 151B.180, et seq.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation governs the provisions of goods and services to individuals by OVR.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists individuals seeking goods and services from OVR in understanding the requirements to obtain the different types of goods and services.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The proposed amendments are made to clearly outline the requirements regarding each type of good or service provided by OVR.
(b) The necessity of the amendment to this administrative regulation: Changes to the regulation are necessary so that individuals will understand the requirements regarding each type of good or service provided by OVR. (c) How the amendment conforms to the content of the authorizing statute: This amendment conforms to the authorizing statutes by outlining the specific requirements for each good or service provided by OVR.
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes: This amendment clearly outlines the requirements regarding each type of good or service provided by OVR.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No person or entity is required to take action as a result of this amendment.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no new costs to any person or entity.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated individuals will have a better understanding of the requirements to obtain goods and services.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No additional costs are expected.
(b) On a continuing basis: No additional costs are expected.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds received by the Office of Vocational Rehabilitation and the required state match funds; however, there are no additional costs as a result of this proposed amendment.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this amendment to the existing administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all affected entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: 29 U.S.C. § 721-723; 34 C.F.R. Part 361; KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This act is authorized by KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:

For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a) Not applicable.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

STATEMENT OF EMERGENCY
804 KAR 13:025E.

Pursuant to KRS 13A.190(1)(a)3. and 2025 Ky. Acts Ch. 78 (SB 100), this emergency regulation is being promulgated to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute.
Enacted in the 2025 Regular Session, Senate Bill 100 requires the Department of Alcoholic Beverage Control ensure the safe and reasonable regulation of tobacco, nicotine, and vapor products within the Commonwealth. Effective January 1, 2026, Section 31 of Senate Bill 100 requires entities to first obtain a tobacco, nicotine, or vapor product license issued by the Department before they may operate as a retailer selling alternative nicotine products, tobacco products, or authorized nicotine vapor products in or on any premises in Kentucky. Approximately 7,000 tobacco, nicotine, or vapor product retailers are currently operating in the Commonwealth. As of December 29, 2025, the Department had issued 3,362 licenses, with an additional 1,592 applications then pending. In order to ensure that retailers who have applied for a license before January 1, 2026, are not penalized through no fault of their own while the Department continues the process of evaluating each application thoroughly, this emergency regulation is being promulgated to implement a tobacco, nicotine, or vapor product provisional licensing structure as soon as possible to meet the statutory deadline under Senate Bill 100.
This emergency administrative regulation will not be replaced by an ordinary administrative regulation.

SCOTTY TRACY, Commissioner
ANDY BESHEAR, Governor

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(New Emergency Administrative Regulation)

804 KAR 13:025E. Provisional license.

EFFECTIVE: December 29, 2025
RELATES TO: KRS 438.305 to 438.350
STATUTORY AUTHORITY: KRS 438.340, 438.3055
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 438.340 authorizes the department to promulgate administrative regulations as necessary to implement and carry out the provisions of KRS 438.305 to 438.350. KRS 438.3055 permits the department to promulgate administrative regulations that govern the sale and distribution of alternative nicotine products, tobacco products, and vapor products. This emergency administrative regulation provides privileges and restrictions of a provisional license to be issued by the commissioner to applicants for a tobacco, nicotine, or vapor product license whose initial application was filed prior to the license being required on January 1, 2026, but is still pending initial determination on and after January 1, 2026.

Section 1. Definitions.
(1) "Alternative nicotine product" is defined by KRS 438.305(1).
(2) "Authorized nicotine vapor product" is defined by KRS 438.305(2).
(3) "Commissioner" is defined by KRS 438.305(3).
(4) "Manufacturer" is defined by KRS 438.305(9).

Section 2. The commissioner may issue a provisional license to a tobacco, nicotine, or vapor product retailer who applied for a tobacco, nicotine, or vapor product license and paid the nonrefundable application fee required by KRS 438.3063(1) prior to January 1, 2026, but whose application is pending initial determination by the commissioner. No additional application or fee shall be required for the issuance of a provisional license.

Section 3. A provisional license issued pursuant to this section shall:
(1) During the period in which the provisional license is effective, authorize the holder to purchase tobacco products, alternative nicotine products, and authorized nicotine vapor products at wholesale from a Kentucky-licensed wholesaler, or directly from a manufacturer, and sell them at retail, subject to the restrictions of KRS 438.305 to 438.350;
(2) Be posted in a conspicuous place in the premises of the business where tobacco, alternative nicotine products, and authorized nicotine vapor products are sold;
(3) Expire after:
(a) Sixty (60) days; or
(b) An initial determination is made by the commissioner on the application, whichever happens sooner; and
(4) Not be renewable.

SCOTTY TRACY, Commissioner
RAY PERRY, Secretary
APPROVED BY AGENCY: December 29, 2025
FILED WITH LRC: December 29, 2025 at 3:11 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 23, 2026, at 9:00 a.m. ET, at 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Joshua Newton, General Counsel, Alcoholic Beverage Control, 500 Mero Street, Frankfort, Kentucky 40601; Joshua.Newton@ky.gov.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 438.340, 438.3055
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Senate Bill 100 of the 2025 Kentucky General Assembly
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Department of Alcoholic Beverage Control is the promulgating agency. No other state units, parts or divisions are affected by this emergency administrative regulation.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): This regulation will have no effect on any local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No other entities will be affected by this regulation. This regulation will have no effect on any other regulated entities.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation has no fiscal impact.
(b) Methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the regulation imposes no new action on any regulated body.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This regulation will have no economic impact.
(b) The methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the regulation imposes no new action on any regulated body.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. N/A.
(2) State compliance standards. N/A.
(3) Minimum or uniform standards contained in the federal mandate. N/A.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A.

AMENDED IN-PROCESS EMERGENCY ADMINISTRATIVE REGULATIONS

NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. Other statutes or legislation may affect a regulation's actual end date.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Emergency Amended After Comments)

804 KAR 13:010E. Tobacco enforcement and administration.

EFFECTIVE: January 15, 2026
Prior Versions:
Emergency Amendment: 52 Ky.R. 925
RELATES TO: KRS Chapter 13B, 438.305 to 438.350[~~438.310, 1996 GA SB 137, EO 1996-619~~]
STATUTORY AUTHORITY: KRS 438.340, 438.3055[~~EO 96-619~~]
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 438.305[~~0~~] to 438.350 impose penalties upon tobacco, nicotine, and vapor product retailers, wholesalers, and manufacturers who violate relevant statutory provisions or the department's administrative regulations related to tobacco, nicotine, or vapor products. These statutes also mandate that the department enforce penalties using an administrative hearing process in accordance with KRS Chapter 13B, and that the department collect and report[~~requires a seller of tobacco products to obtain proof of the age of a prospective buyer recipient of tobacco products if he has reason to believe the prospective buyer or recipient is under eighteen (18) years old; requires the establishment of the types of documentation accepted as proof of age, notification of the employees of a seller of tobacco products of the requirements of SB 137, administrative proceedings in the enforcement of SB 137, and the collection of~~] statistics relating to the illegal sale to persons under the age of twenty-one (21)[~~minors~~] of tobacco products, alternative nicotine products, and vapor products, and the enforcement of KRS 438.305 to 438.350[~~SB 137~~]. Specifically, KRS 438.340 authorizes the department to promulgate administrative regulations necessary to implement and carry out the provisions of KRS 438.305 to 438.350, and KRS 438.3055 requires the department to carry out the enforcement provisions of KRS 438.305 to 438.350, including the promulgation of administrative regulations that govern the sale and distribution of alternative nicotine products, tobacco products, and vapor products.

Section 1. Definitions.
(1) "Department" is defined in KRS 438.305(5)[~~means the Department of Alcoholic Beverage Control~~].
(2) "License" means a tobacco, nicotine, or vapor product license.

Section 2. Administration. The department shall be the administrative agency for hearing violations of KRS 438.305 to 438.350[~~438.340~~].

Section 3. Requests for Hearing.[~~Enforcement.~~]
[~~(1)~~] [~~The department shall record and investigate complaints relating to violations of KRS 438.305 to 438.340.~~]
[~~(2)~~] [~~The department shall prepare an annual survey from data obtained from the annual inspection directed by KRS 438.330(1). The survey shall be prepared to determine the existing level of tobacco sales to minors. A copy of the report shall be submitted to the Office of Agriculture.~~]
[~~(3)~~] [~~The result of the annual survey may be inspected, copied or obtained at the office of the Department of Agriculture, Capital Plaza Tower, 7th Floor, 500 Mero Street, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday, excepting state holidays.~~]

[~~Section 4.~~] [~~Procedures.~~]
(1) [~~A person found to be violation of KRS 438.305 to 438.340 may be cited by the department. Any administrative citation shall conform to the requirements of KRS Chapter 13B.~~]
[~~(2)~~] A person or business receiving an administrative citation pursuant to KRS 438.305 to 438.350, a revocation of their license pursuant to KRS 438.3069, or a denial of their application for a license pursuant to KRS 438.3067,[~~438.340~~] may request an administrative hearing, on the matter, to be conducted by the department in accordance with KRS Chapter 13B[~~, to contest the allegation in the citation. The department may, in its discretion, employ one (1) or more hearing officers to conduct the administrative hearings. All administrative hearings shall be governed by KRS Chapter 13B~~].
(2) A request for hearing to contest the following shall be made in writing by the person or business receiving the administrative citation, revocation, or denial, or their attorney, within thirty (30) days of receipt:
(a) An administrative citation for a violation of KRS 438.305 to 438.350;
(b) A license revocation pursuant to KRS 438.3069; or
(c) A license application denial pursuant to KRS 438.3067.
(3) A request for a hearing shall include:
(a) A copy of the administrative citation, notice of revocation, or notice of denial;
(b) The name, address, and contact information of the person or business that received the administrative citation, revocation, or denial; and
(c) The name, address, and contact information of their agent for service, if that differs from the information provided pursuant to paragraph (b) of this subsection.
(4) A request for a hearing shall be mailed to the Department of Alcoholic Beverage Control, ATTN: Tobacco Hearing Request, 500 Mero Street, Frankfort, Kentucky 40601, or emailed to the department at abc.legal@ky.gov.
(5) Upon receipt of a timely request for hearing, the department shall refer the matter to an administrative hearing officer for adjudication in accordance with KRS Chapter 13B.
(6) If a request for hearing is not made within thirty (30) days of receipt of an administrative citation, revocation, or denial, the opportunity for a hearing shall be deemed to have been waived and the disciplinary action imposed shall thereby be deemed effective.

Section 4. Prepayment of Fines.
[~~(3)~~] A fine imposed[~~levied~~] pursuant to an administrative citation shall be prepayable within thirty (30) days of issuance of the administrative citation. A person not wishing to contest the allegations in the citation may resolve the charge by making a payment in the amount set forth in the administrative citation through any of the following methods:
(1) Mailing[~~mailing a~~] or otherwise submitting a cashier's check, certified check, business check, or money order[~~ in the amount set forth in the citation,~~] payable to the Kentucky State Treasurer, to the Kentucky Department of Alcoholic Beverage Control, 500 Mero Street, Frankfort, Kentucky 40601, or[~~hearing agency name and address set forth in the citation.~~]

(2) Making an electronic Tobacco Citation Payment on the department's online payment portal at https://abcportal.ky.gov/BELLEExternal.

Section 5. License Surrender. A tobacco, nicotine, or vapor product licensee and its employees shall not evade imposition of penalties or a finding of culpability for violations alleged in a citation by surrender or expiration of its license. The department shall retain the authority to enforce relevant provisions and penalties of KRS 438.305 to 438.350 against any individual or business entity who is under investigation for or charged with a violation of those statutes, even if the individual's or business entity's tobacco, nicotine, or vapor product license has been surrendered or has expired by operation of law.

Section 6.[(4)] Disposition of Records and Evidence.[juvenile records.]

(1) The department shall preserve the confidentiality of all juvenile records by maintaining a separate filing system[, under lock and key,] with access limited to the parties and their legal counsel. The department shall maintain statistical summaries of case information, including date of buy, geographical location of buy, name and address of retail seller, date of purchase, date of birth and gender of underage buyer, and disposition of case. Statistical summaries relating to underage buyers shall not identify the underage buyer by name.

(2)[(5)] Physical **property**[evidence] seized **as contraband property, as defined by KRS 438.305(4),** in the course of **investigations of** administrative violations of KRS 438.305 to 438.350[438.340] shall be maintained by the department in a secured evidentiary storage facility and destroyed after the administrative matter is resolved, unless it is found that the evidence was not used in violation of the law, in which case the **property**[evidence] will be returned to its owner.

(3) The disposition of **contraband property and** evidence shall not occur until all appeals associated with the administrative matter have been exhausted.

SCOTTY TRACY, Commissioner
RAY PERRY, Secretary
APPROVED BY AGENCY: January 15, 2026
FILED WITH LRC: January 15, 2026 at 11:45 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Joshua Newton
Subject Headings:
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation outlines the process for enforcement and administration of laws related to tobacco, nicotine and vapor products.
(b) The necessity of this administrative regulation: KRS 438.305 to 438.350 impose penalties upon tobacco, nicotine, and vapor product retailers, wholesalers, and manufacturers who violate their provisions, or the regulations of the department related to tobacco, nicotine, or vapor products. These statutes also mandate that the department enforce these penalties using an administrative hearing process in accordance with KRS Chapter 13B, and that the department collect and statistics relating to the illegal sale to persons under the age of twenty-one (21) of tobacco, alternative nicotine products, and vapor products and enforcement of KRS 438.305 to 438.350.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation outlines the process for enforcing the requirements of the statutes related to underage tobacco, nicotine and vapor product sales, how penalties are to be paid, and to whom the department will report data related to these enforcement efforts.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in effective administration of the statute by outlining the process for citing violations, payment of fines related to violations, and the process to appeal those citations.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment adds language in response to Senate Bill 100 of the 2025 Regular Session of the General Assembly. These changes relate to how clerks and retailers may be cited, and how they can pay their fines or appeal the citations administratively. It also updates the address for the Department of Agriculture for obtaining a copy of the required data reporting.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to address changes made to tobacco, nicotine and vapor administration and enforcement by Senate Bill 100 during the 2025 Regular Session of the General Assembly.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 438.305 to 438.350 impose penalties upon tobacco, nicotine, and vapor product retailers, wholesalers, and manufacturers who violate their provisions, or the regulations of the department related to tobacco, nicotine, or vapor products. These statutes also mandate that the department enforce these penalties using an administrative hearing process in accordance with KRS Chapter 13B, and that the department collect and statistics relating to the illegal sale to persons under the age of twenty-one (21) of tobacco, alternative nicotine products, and vapor products and enforcement of KRS 438.305 to 438.350.This amendment updates the regulation to reflect the changes made in Senate Bill 100 from the Regular Session of the General Assembly.
(d) How the amendment will assist in the effective administration of the statutes: ABC is tasked with enforcing the tobacco, nicotine and vapor laws as it relates to sales to minors and unauthorized vapor products and with approving or denying applications for licenses to sell tobacco, nicotine, and vapor products. The amendment outlines how those charged with violating these laws can appeal violation citations, revocations, and denials as well as how they can pay related fines.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2025 Ky. Acts Ch. 78 (SB 100)
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: It is estimated that there are approximately 7,000 retailers of tobacco, nicotine or vapor products in the Commonwealth of Kentucky. These businesses include gas stations, grocery stores, and standalone vape/tobacco businesses. This amendment could affect any number of these retailers and their clerks to the extent that this amendment updates them on how to pay fines for violations or how to appeal violation citations. Additionally, all of these retailers will need to apply for tobacco, nicotine, and vapor product licenses, and this regulation details how they may request a hearing if their application for licensure is denied.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The regulated businesses will be required to take no action because of this amendment.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): This amendment does not impose costs on any entity identified in question (4).
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): By complying with this amendment, a licensee who is charged with a violation will be afforded the benefit of a KRS Chapter 13B administrative hearing, should they elect to request one, whenever a tobacco, nicotine, or vapor product citation is issued.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: To implement and enforce the licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100), the department will be required to employ 20 additional staff members, resulting in an initial cost of $2,750,000.00 and an annual increased cost of $2,250,000.00 to the department. A portion of those additional staff members will be dedicated to—and the costs associated with their hiring will be attributed to—executing the new enforcement procedures contemplated by this administrative regulation.

(b) On a continuing basis: See increased annual cost referenced above.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The implementation and enforcement of the licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100) will be funded through the collection of licensure fees and civil penalty fines.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: SB 100 established license fees and fines that will be necessary to implement this regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation amendment does not establish any fees directly or indirectly.
(10) TIERING: Is tiering applied? Tiering is not applied. This regulation amendment provides the process for paying violation fines or appealing violation citations.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS Chapter 13B, KRS 438.3055, 438.3067, 438.3069, 438.310, 438.312, 438.313, 438.316
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is expressly authorized by KRS 438.340 and Senate Bill 100 of the 2025 Kentucky General Assembly.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Department of Alcoholic Beverage Control is the promulgating agency. No other state units, parts or divisions are affected by this regulation amendment.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): This regulation will have no effect on any local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No other entities will be affected by this regulation. This regulation will have no effect on any other regulated entities.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation has no fiscal impact as it only provides the process for paying fines or appealing citations.
(b) Methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the amendment imposes no new action on any regulated body.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This regulation is anticipated to have a major economic impact. To implement and enforce the licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100), the department will be required to employ 20 additional staff members, resulting in an initial cost of $2,750,000.00 and an annual increased cost of $2,250,000.00 to the department. A portion of those additional staff members will be dedicated to—and the costs associated with their hiring will be attributed to—executing the new enforcement procedures contemplated by this administrative regulation.
(b) The methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the regulation amendment imposes no new action on any regulated body.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. N/A
(2) State compliance standards. N/A
(3) Minimum or uniform standards contained in the federal mandate. N/A
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Emergency Amended After Comments)

804 KAR 13:020E. Tobacco, nicotine, or vapor product license application forms.

EFFECTIVE: January 15, 2026
Prior Versions:
Emergency Amendment: 52 Ky.R. 928
RELATES TO: KRS 438.3063, 438.3065, 438.3067, 438.310
STATUTORY AUTHORITY: KRS 438.3055, 438.3063, 438.340
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 438.340 authorizes the department to promulgate administrative regulations as necessary to implement and carry out the provisions of KRS 438.305 to 438.350. KRS 438.3055 authorizes the Division of Tobacco, Nicotine, and Vapor Product Licensing to promulgate administrative regulations that govern the sale and distribution of alternative nicotine products, tobacco products, and vapor products. KRS 438.3063 mandates that the department prescribe a form to apply for a tobacco, nicotine, or vapor product license. This administrative regulation prescribes the form of the tobacco, nicotine, or vapor product license application forms utilized by the department.

Section 1. Definitions. "Licensee" shall mean the holder of a tobacco, nicotine, or vapor product license.

Section 2. Initial Tobacco, Nicotine, or Vapor Product License Application Requirements.

(1) An initial applicant for a tobacco, nicotine, or vapor product license shall:

(a) Complete and submit the Initial Tobacco, Nicotine, or Vapor Product License Application form, and the associated documents required by that form, to the commissioner via the department's online licensing portal at https://abcportal.ky.gov/BELLEExternal;

(b) Pay the nonrefundable application fee established by KRS 438.3063(1); and

(c) Pay the license fee established in KRS 438.3063(4)(a).

(2) If the applicant has purchased a tobacco, nicotine, or vapor product licensed business and wishes to continue selling tobacco, nicotine, or vapor products at this business premises, the applicant shall, in addition to the requirements of subsection (1):

(a) Indicate on the Initial Tobacco, Nicotine, or Vapor Product License Application form that it has purchased the business from a licensee;

(b) Submit documentation of the published advertisement in accordance with KRS 438.3065(1)(b) to the commissioner via the department's online licensing portal at https://abcportal.ky.gov/BELLEExternal;

(c) Submit written verification of the seller's consent to the sale via the department's online licensing portal at https://abcportal.ky.gov/BELLEExternal in the format required by the Initial Tobacco, Nicotine, or Vapor Product License Application; and

(d) Pay the nonrefundable transitional license fee established by KRS 438.3065(2).

Section 3. Renewal Schedule.

(1) Tobacco, nicotine, or vapor product licenses shall expire one year from the date the license is issued unless renewed.

(2) Notwithstanding subsection (1) of this section, and pursuant to KRS 438.3063(3), initial applicants for a tobacco, nicotine, or vapor product license may elect to schedule the first renewal of their tobacco, nicotine, or vapor product license, if issued, to occur in the calendar year after which an initial license was obtained, in accordance with either:

(a) The renewal schedule for alcoholic beverage licenses outlined in 804 KAR 4:390, Section 2, in the county in which their premises is located; or

(b) If the applicant will be batch renewing their licenses, in accordance with the renewal schedule for batch renewals outlined in 804 KAR 4:390, Section 3.

(3) Notwithstanding subsection (1) of this section, if an applicant elects for their renewal schedule to occur in accordance with 804 KAR 4:390 pursuant to KRS 438.3063(3) and subsection (2) of this section:

(a) The applicant shall pay a prorated tobacco, nicotine, or vapor product license fee equal to one-twelfth (1/12) the annual fee for a tobacco, nicotine, or vapor product license, multiplied by the number of months between the issuance of their initial tobacco, nicotine, or vapor product license and either:

1. The month alcoholic beverage licenses expire in the county in which their licensed premises is located, in the calendar year after which an initial license was obtained, in accordance with 804 KAR 4:390 Section 2; or

2. If batch renewing their license, the month alcoholic beverage licenses expire for batch renewals in the calendar year after which an initial licensed was obtained, in accordance with 804 KAR 4:390 Section 3. In either case, the number of months to be considered in calculating the amount of the fee shall include the month the tobacco, nicotine, or vapor product license is issued and the month that alcoholic beverage licenses expire under the relevant renewal schedule.

(b) The applicant's initial tobacco, nicotine, or vapor product license, if issued, shall be deemed surrendered on the date alcoholic beverage licenses expire in accordance with the renewal schedule the applicant elected to follow pursuant to subsection (2) of this section, if such an election was made, and if not renewed in accordance with Section 4 of this regulation.

(4) If a tobacco, nicotine, or vapor product license is issued and the licensee wishes to renew it, the licensee shall file a Tobacco, Nicotine, or Vapor Product License Renewal Application in accordance with Section 4 of this regulation.

Section 4. Tobacco, Nicotine, or Vapor Product License Renewal Application. A licensee wishing to renew their license shall:

(1) Pay all fines incurred under KRS 438.305 to 438.350 prior to renewing their license;

(2) Pay the nonrefundable application fee established by KRS 438.3063(1);

(3) Pay the license fee established in KRS 438.3063(4)(a); and

(4) Complete and submit the Tobacco, Nicotine, or Vapor Product License Renewal Application form to renew their license no more than forty-five (45) days prior to its:

(a) Expiration; or

(b) Surrender date, if renewing in accordance with an election made pursuant to Section 3(2) of this regulation.

Section 5. Renewal Grace Period. If a licensee fails to renew its license by the expiration date, the department **shall**[~~may~~] grant one (1) extension that shall not exceed thirty (30) days from the original expiration date. The licensee shall not conduct any activity related to the sale of tobacco, nicotine, or vapor products during the extension period. A license not renewed during the thirty (30) day extension period shall not be renewed thereafter for any reason, and the licensee shall be required to apply for a new license, should they wish to engage in the sale of tobacco, nicotine, or vapor products.

Section 6. Applications for Tobacco, Nicotine, or Vapor Product Licenses Submitted Online. All tobacco, nicotine, and vapor product license application forms shall be submitted through the department's online licensing management portal located at https://abcportal.ky.gov/BELLEExternal.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Initial Tobacco, Nicotine, or Vapor Product License Application," **January 2026**[~~October 2025~~];

(b) "Tobacco, Nicotine, or Vapor Product License Renewal Application," October 2025.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 500 Mero St., Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site, http://www.abc.ky.gov/.

SCOTTY TRACY, Commissioner
RAY PERRY, Secretary
APPROVED BY AGENCY: January 15, 2026
FILED WITH LRC: January 15, 2026 at 11:45 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Joshua Newton
Subject Headings:
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation prescribes the form of the tobacco, nicotine, or vapor product license application utilized by the department.
(b) The necessity of this administrative regulation: KRS 438.3063 mandates that the department prescribe a form to apply for a tobacco, nicotine, or vapor product license. This regulation is necessitated by that statute.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 438.340 authorizes the department to promulgate administrative regulations as necessary to implement and carry out the provisions of KRS 438.305 to 438.350. KRS 438.3063 mandates that the department prescribe a form to apply for a tobacco, nicotine, or vapor product license. This administrative regulation prescribes the form of the tobacco, nicotine, or vapor product license application utilized by the department, as required by the statute.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist with the effective administration of the statute by providing the form needed to apply for the required license. Without an application

process in place, the ability to sell tobacco, nicotine, or vapor products will be adversely affected.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: N/A
(b) The necessity of the amendment to this administrative regulation: N/A
(c) How the amendment conforms to the content of the authorizing statutes: N/A
(d) How the amendment will assist in the effective administration of the statutes: N/A
(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2025 Ky. Acts Ch. 78 (SB 100)
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: It is estimated that there are approximately 7,000 retailers of tobacco, nicotine or vapor products in the Commonwealth of Kentucky. These businesses include gas stations, grocery stores, and standalone vape/tobacco businesses. All businesses that want to sell tobacco, nicotine, or vapor products, must have a license to sell any of those products as of January 1, 2026.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Kentucky businesses must obtain a license to sell tobacco, nicotine, or vapor products by January 1, 2026. This regulation provides the form for those businesses to apply for the required license.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): This regulation does not impose costs on any entity identified in question (4). However, the license fee is set out in statute.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Entities wishing to sell tobacco, nicotine, or vapor products will benefit from this regulation as it provides the form they will need to obtain the required license.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: To implement and enforce the licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100), the department will be required to employ 20 additional staff members, resulting in an initial cost of $2,750,000.00 and an annual increased cost of $2,250,000.00 to the department. A portion of those additional staff members will be dedicated to—and the costs associated with their hiring will be attributed to—the processing of applications and the issuance of licenses contemplated by this administrative regulation.
(b) On a continuing basis: See increased annual cost referenced above.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The implementation and enforcement of the licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100) will be funded through the collection of licensure fees and civil penalty fines.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: SB 100 established license fees and fines that will be necessary to implement this regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees directly or indirectly.
(10) TIERING: Is tiering applied? Tiering is not applied. This regulation provides the form for applicants wishing to obtain a tobacco, nicotine or vapor product license.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 438.3063, 438.3065, 438.3067, 438.310, 438.3055, 438.340
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Senate Bill 100 of the 2025 Kentucky General Assembly.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Department of Alcoholic Beverage Control is the promulgating agency. No other state units, parts or divisions are affected by this regulation.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): This regulation will have no effect on any local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No other entities will be affected by this regulation. This regulation will have no effect on any other regulated entities.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation has no fiscal impact as it only provides the application form for retailers that want to sell tobacco, nicotine, or vapor products to obtain the required license.
(b) Methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the regulation imposes no new action on any regulated body.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This regulation is anticipated to have a major economic impact. To implement and enforce the licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100), the department will be required to employ 20 additional staff members, resulting in an initial cost of $2,750,000.00 and an annual increased cost of $2,250,000.00 to the department. A portion of those additional staff members will be dedicated to—and the costs associated with their hiring will be attributed to—the processing of applications and the issuance of licenses contemplated by this administrative regulation
(b) The methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the regulation imposes no new action on any regulated body.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. N/A
(2) State compliance standards. N/A
(3) Minimum or uniform standards contained in the federal mandate. N/A
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Emergency Amended After Comments)

804 KAR 13:030E. Causes for denial of tobacco, nicotine, or vapor product license.

EFFECTIVE: January 15, 2026
Prior Versions:
Emergency Amendment: 52 Ky.R. 930
RELATES TO: KRS 438.3063, 438.3067
STATUTORY AUTHORITY: KRS 438.340, 438.3055
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 438.340 authorizes the department to promulgate administrative regulations as necessary to implement and carry out the provisions of KRS 438.305 to 438.350. KRS 438.3067 requires the commissioner to approve or deny every application for a tobacco, nicotine, or vapor product license and to notify the applicant of the reasons for the denial. This administrative regulation provides the reasons for which the commissioner shall or may deny an application for a tobacco, nicotine, or vapor product license.

Section 1. An application for a tobacco, nicotine, or vapor product license shall be denied if:
(1) The applicant or the premises for which the tobacco, nicotine, or vapor product license is sought does not comply fully with all applicable statutes under KRS 438.305 **to**[~~and~~] 438.350, and with the administrative regulations promulgated under 804 KAR Chapter 13;
(2) [~~The applicant has engaged in any activity for which revocation of a tobacco, nicotine, or vapor product license would be authorized;~~]
[~~(3)~~] The applicant has made any false material statement in its application; or
(3)[~~**(4)**~~] The applicant fails to pay the tobacco, nicotine, or vapor product license fee established in KRS 438.3063(4).

Section 2. An application for a tobacco, nicotine, or vapor product license may be denied for any reason that the commissioner, in the exercise of the commissioner's sound discretion, deems sufficient. Among those factors that the commissioner shall consider in the exercise of this discretion are:
(1) Public sentiment in the area;
(2) Number of licensed outlets in the area;
(3) Potential for future growth;
(4) Type of area involved; and
(5) Financial potential of the area.

SCOTTY TRACY, Commissioner
RAY PERRY, Secretary
APPROVED BY AGENCY: January 15, 2026
FILED WITH LRC: January 15, 2026 at 11:45 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Joshua Newton
Subject Headings:
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation provides the reasons for which the commissioner shall or may deny an application for a tobacco, nicotine, or vapor product license.
(b) The necessity of this administrative regulation: KRS 438.3067 requires the commissioner to approve or deny every application for a tobacco, nicotine, or vapor product license and to notify the applicant of the reasons for the denial. This regulation outlines the reasons an application may or shall be denied and is necessary to provide information to potential applicants.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 438.340 authorizes the department to promulgate administrative regulations as necessary to implement and carry out the provisions of KRS 438.305 to 438.350. KRS 438.3067 requires the commissioner to approve or deny every application for a tobacco, nicotine, or vapor product license and to notify the applicant of the reasons for the denial. This administrative regulation provides the reasons for which the commissioner shall or may deny an application for a tobacco, nicotine, or vapor product license.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation outlines for potential applicants the specific reasons that their application for a tobacco, nicotine or vapor product license may or shall be denied.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: N/A
(b) The necessity of the amendment to this administrative regulation: N/A
(c) How the amendment conforms to the content of the authorizing statutes: N/A
(d) How the amendment will assist in the effective administration of the statutes: N/A
(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2025 Ky. Acts Ch. 78 (SB 100)
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: It is estimated that there are approximately 7,000 retailers of tobacco, nicotine or vapor products in the Commonwealth of Kentucky. These businesses include gas stations, grocery stores, and stand alone vape/tobacco businesses. All businesses that want to sell tobacco, nicotine, or vapor products, must have a license to sell any of those products as of January 1, 2026.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Kentucky businesses must obtain a license to sell tobacco, nicotine, or vapor products by January 1, 2026. This regulation outlines for those business owners the reasons an application for the license may be denied. This regulation does not require the entities listed to do anything.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): This regulation does not impose costs on any entity identified in question (4).
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Entities wishing to sell tobacco, nicotine, or vapor products will benefit from this regulation as it specifically outlines the reasons an application for a license may be denied. This will allow an applicant to know in advance, if they are not qualified for the license.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There is no specific cost associated with implementation of this particular regulation. However, to implement and enforce the

licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100), the department will be required to employ 20 additional staff members, resulting in an initial cost of $2,750,000.00 and an annual increased cost of $2,250,000.00 to the department.
(b) On a continuing basis: See increased annual cost referenced above.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The implementation and enforcement of the licensing and retail sales requirements contemplated by 2025 Ky. Acts Ch. 78 (SB 100) will be funded through the collection of licensure fees and civil penalty fines.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: SB 100 established license fees and fines that will be necessary to implement this regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees directly or indirectly.
(10) TIERING: Is tiering applied? Tiering is not applied. This regulation only informs applicants of the reasons their license application may be denied.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: 438.3063, 438.3067; 438.340, 438.3055.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: Senate Bill 100 of the 2025 Kentucky General Assembly.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Department of Alcoholic Beverage Control is the promulgating agency. No other state units, parts or divisions are affected by this regulation.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): This regulation will have no effect on any local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No other entities will be affected by this regulation. This regulation will have no effect on any other regulated entities.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation has no fiscal impact as it only outlines the reasons for which a license may be denied.
(b) Methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the regulation imposes no new action on any regulated body.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This regulation will have no economic impact.
(b) The methodology and resources used to reach this conclusion: The only methodology used to reach this conclusion is that the regulation imposes no new action on any regulated body.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. N/A
(2) State compliance standards. N/A
(3) Minimum or uniform standards contained in the federal mandate. N/A
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 2:010. Preparation of ballots and voting systems prior to election day.

RELATES TO: KRS ***117.001,*** 117.076(1), 117.085(5), 117.145, 117.383, ***117.389,*** 118.035, 118.215(1), 118.770[~~KRS 116.025, 116.065, 117.001, 117.085(5), 117.125, 117.145, 117.155, 117.165, 117.175, 117.195, 117.205, 117.255, 117.275, 117.377, 117.379, 117.383, 117.385, 117.389, 117.391, 117.393, 118.015, 118.025, 118.215(1), 118.770, 118A.010, 119.005, 424.290~~]

STATUTORY AUTHORITY: KRS 117.015(1)(a), ***117.145(4),*** 117.383

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to administer the election laws of the state. KRS 117.145(4) requires the State board of Elections to establish methods of securing the integrity of the ballots from the time of certification of each candidate and each question to be voted upon in any primary or election until the conclusion of the primary or election, and the method of tracking all voted, unvoted, or spoiled ballots. KRS 117.383 requires the State Board of Elections to promulgate administrative regulations to maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting. KRS 117.383(1) requires the State Board of Elections to promulgate administrative regulations to count, tabulate, and record votes. KRS 117.383(2) requires the State Board of Elections to promulgate administrative regulations to establish a method for placing items on any ballot, which shall, as closely as possible, follow the requirements pertaining to ballots. KRS 117.383(5) requires the State Board of Elections to promulgate administrative regulations to provide for checking the accuracy of the voting system. This administrative regulation establishes the procedures for the county clerk and the county board of elections to follow in preparing the ballots and the voting systems prior to each election.

Section 1. Definitions.

(1) "Accuracy Board" means the county board of elections, or at least two (2) individuals appointed by the county board of elections, assigned with the duty of overseeing the accuracy testing of the voting machines and the voting systems required by 31 KAR 2:020.

(2) "Accuracy test" means the procedures established by 31 KAR 2:020 for checking the accuracy of the voting system required by KRS 117.383(5), and the testing of the automatic tabulating equipment and voting systems required by KRS 117.389.

(3) "Ballot accountability statement" means a form created by the county clerk in accordance with Section 4 of this administrative regulation.

(4) "Ballot template" means a printout created by the program administrator of the voting systems that shows the results of the steps taken by the program administrator to place all candidates, races, and ballot questions on each ballot based on the information provided by the county clerk.

(5) "Certification" means the information provided by the county clerk to the program administrator that includes an accurate listing of all federal, state, county, and local candidates, offices and ballot questions to be placed on the ballot for each voting machine or voting system for each precinct within five (5) days of receiving the certification of candidates by the Secretary of State, pursuant to KRS 118.215(1), or immediately after receiving the Secretary of State's certification pursuant to KRS 118.770.

(6) "E-poll book" is defined by KRS 117.001(9).

(7) "Program administrator" means the county clerk or authorized assistant designated to configure the voting machines and voting systems.

(8)[~~(7)~~] "Scan voting system" means a tabulating device that reads paper ballots by electronically detecting voters' marks.

(9)[~~(8)~~] "Voting machine" is defined by KRS 117.001***(24)***[***(19)***][~~means hardware, which is a component of the voting system, used or relied upon by a voter in casting and recording his or her votes in a precinct in an election, which has been approved by the State Board of Elections for use in elections in the Commonwealth of Kentucky pursuant to KRS 117.379~~].

(10)[~~(9)~~] "Voting system" is defined by KRS 117.001***(25)***[***(20)***][~~means a system of components of hardware and software, including the voting machine, used by a voter to cast a ballot and by the election officials to tabulate the votes on election day, which has been approved by the State Board of Elections for use in elections in the Commonwealth of Kentucky pursuant to KRS 117.379~~].

(11)[~~(10)~~] "Zero-file" means a computer-based electronic file type listing all electoral contests and questions, displaying precinct-by-precinct vote totals registering as zero, which includes all candidates, offices, and ballot questions in the order under which they have been certified pursuant to KRS 118.215(1) or KRS 118.770, for all mail-in absentee ballots, excused in-person absentee ballots, no-excuse in-person absentee ballots, and election day ballots.

Section 2. Preparation of Each Voting Machine and Voting System.

(1) The county clerk shall designate a program administrator to configure the voting machines and voting systems for each election.

(2)

(a) Within five (5) days of receiving the certification of candidates by the Secretary of State, pursuant to KRS 118.215(1), or immediately after receiving the Secretary of State's certification pursuant to KRS 118.770, the county clerk shall provide a certification to the program administrator that includes an accurate listing of all federal, state, county, and local candidates, offices, and ballot questions.

(b) The program administrator shall place the information in the certification in the ballot template for each voting system and precinct.

(3) The program administrator, if other than the county clerk, shall provide a ballot template for each ballot to the county clerk not less than three (3) days before the deadline for printing ballots established in KRS 117.085(5) and 117.145(1).

(4) The county clerk shall compare the prepared ballots and ballot screens, if applicable, for each voting system with the ballot template and the certification supplied by the county clerk to the program administrator to ascertain that all federal, state, county, and local candidates, offices and ballot questions shall be the same as listed on the certification and shall appear in the correct positions.

(5) Once the county clerk has ascertained that all federal, state, county, and local candidates, offices and ballot questions are the same as listed on the certification and appear in the correct position, the program administrator shall electronically transmit to the State Board of Elections a zero-file in a format designated by the State Board of Elections.

(6) The county clerk shall provide the ballot templates to the county board of elections or designated Accuracy Board prior to the conduct of the accuracy tests required by 31 KAR 2:020.

(7) The county board of elections, or designated review board, shall review the ballot template and the certification supplied by the county clerk to the program administrator to ascertain that all federal, state, county, and local candidates, offices and ballot questions shall be the same as listed on the certification and shall appear in the

correct positions prior to the conduct of the accuracy tests required by 31 KAR 2:020.

(8) The county clerk shall review and verify the audio ballots to be placed on the accessible voting systems by listening to the audio ballot through a headset to ensure proper pronunciation of all candidate names and to confirm that all federal, state, county, and local candidates, offices and ballot questions shall be the same as listed on the certification and shall appear in the correct positions.

Section 3. Number of Ballots to be Printed. In addition to the requirements established in KRS 117.145, the county clerk shall provide a sufficient number of printed ballots for each precinct in a county that uses scan voting systems for each election. The number of ballots required to be printed and distributed to each precinct with scan voting systems shall be determined as follows:

(1) For a primary, the number of ballots shall be at least ten (10) percent more than the total number of votes cast in each party's primary and nonpartisan race in the most recent presidential primary election;

(2) For the general election, the number of ballots shall be at least ten (10) percent more than the total number of votes cast in the most recent general election in which votes were cast for the electors for the President of the United States; and

(3) For a special election, the number of ballots shall be a sufficient number as determined by the county clerk considering the number of registered voters in the precinct and the type of special election to be held.

Section 4. Preparation and Delivery of Ballots.

(1) The county clerk shall place into a container the paper ballots, if applicable, for each precinct.

(2) The container shall be secured with a seal and contain a certificate signed by the county clerk recording the total number of ballots in the container and that the ballots were counted and sealed by the county clerk.

(3) Ballots not issued to a precinct or assigned for absentee voting shall be secured and accounted for by the county clerk.

(4) The county clerk shall maintain a record of the number of ballots and serial numbers of the voting systems issued to each precinct.

(5) If using paper ballots for a scan voting system, the county clerk shall create a ballot accountability statement to be provided along with the ballots to each precinct that includes:

(a) In a primary, an accounting of the total number of ballots for each party primary and nonpartisan race submitted to the precinct to be completed by the county clerk;

(b) In a general election, an accounting of the total number of each type of ballot submitted to the precinct to be completed by the county clerk;

(c) An oath for the county clerk to sign attesting to the accuracy of the information provided by the county clerk on the statement;

(d) An accounting of the total number of ballots used, unused, and spoiled on election day to be completed by the precinct election clerk and signed by all four (4) precinct election officers;

(e) An accounting of the total number of ballots returned to the county clerk at the end of the election day to be completed by the precinct election clerk;

(f) A section that allows for the precinct election clerk to explain any discrepancies; and

(g) An oath for the precinct election officers to sign attesting to the accuracy of the information provided on the statement.

Section 5. Preparation of E-Poll Books Before Opening of Voting Locations. Each county board of elections shall ensure that there is adequate time before the polls open, as required by KRS 118.035 or KRS 117.076(1), for all e-poll books slated to be used at a voting location, on any day of in-person voting, to be powered on and receive all necessary updates.

FILED WITH LRC: January 12, 2026

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STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 2:020. Accuracy test and setting of voting systems prior to election day.

RELATES TO: KRS ***117.066,*** 117.155, 117.165, 117.215, 117.275, 117.379, 117.381, 117.383, 117.389, 118.215(1), 118.770[~~KRS 116.025, 116.065, 117.075, 117.125, 117.145, 117.155, 117.165, 117.175, 117.195, 117.205, 117.215, 117.255, 117.275, 117.285, 117.375, 117.377, 117.379, 117.381, 117.383, 117.385, 117.387, 117.389, 117.391, 117.393, 118.015, 118.215(1), 118.770, 118A.010, 119.005, 424.290~~]

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.383**,** ***117.389***[, ~~117.389~~]

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to administer the election laws of the state. KRS 117.383[~~(1)~~] requires the State Board of Elections to promulgate rules and administrative regulations to achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting. KRS 117.383(5)[~~(6)~~] requires the State Board of Elections to promulgate rules and administrative regulations to provide for checking the accuracy of the voting system[~~equipment~~]. KRS 117.389 requires the State Board of Elections to prescribe the manner by which the county clerk shall have the automatic tabulating equipment tested on any day after ballots have been certified by the Secretary of State as provided in KRS 118.215, and petitions to allow consolidation of precincts have been approved by the State Board of Elections as provided in KRS 117.066, but not less than five (5) days prior to the election day. This administrative regulation establishes the procedures for checking the accuracy of the voting equipment and testing the automatic tabulating equipment prior to each election to achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting and setting the voting equipment prior to the public examination performed according to KRS 117.165.

Section 1. Definitions.

(1) "Accuracy Board" means the county board of elections or at least two (2) individuals appointed by the county board of elections in accordance with this administrative regulation.

(2) "Accuracy test" means the checking of the accuracy of the voting system[~~equipment~~] required by KRS 117.383(5)[~~(6)~~] and the testing of the automatic tabulating equipment and voting systems required by KRS 117.389.

(3) "Accuracy test checklist" means a checklist prepared by the county board of elections for each voting machine and voting system in accordance with Section 4 of this administrative regulation.

(4) "Ballot style" means the ballot unique to a specific precinct listing the federal, state, county, and local candidates, offices, and ballot questions for which a voter in the precinct may cast a vote.

(5) "Certificate" means the County Board of Elections Certificate of Completion of Accuracy Test, SBE 16.

(6) "Certification" means the information provided by the county clerk to the program administrator that includes an accurate listing of all federal, state, county, and local candidates; offices; and ballot questions to be placed on the ballot for each voting machine or voting system for each precinct within five (5) days of receiving the certification of candidates by the Secretary of State, pursuant to KRS 118.215(1), or immediately after receiving the Secretary of State's certification pursuant to KRS 118.770.

(7) "Program administrator" means the county clerk or authorized assistant designated to configure the voting machines and voting systems as required by 31 KAR 2:010.

(8) "Public examination" means the examination conducted by the county board of elections prior to election day pursuant to KRS 117.165.

(9) "Tally sheet" means a listing of the results from the test deck to be compared to the results printout from each voting machine or voting system after an accuracy test.

(10) "Test deck" means a set of example ballots marked with predetermined results or a set of predetermined votes prepared by the Accuracy Board used to perform an accuracy test on each voting machine or voting system in accordance with Section 3 of this administrative regulation.

(11) "Verification sheet" means the sheet approved by the county board of elections for each voting machine and voting system in accordance with Section 6 of this administrative regulation.

(12) "Voting machine" is defined by KRS 117.001***(24)***[~~***(19)***~~][~~means hardware, which is a component of the voting system, used or relied upon by a voter in casting and recording his or her votes in a precinct in an election, which has been approved by the State Board of Elections for use in elections in the Commonwealth of Kentucky, pursuant to KRS 117.379 and 117.381~~].

(13) "Voting system" is defined by KRS 117.001***(25)***[~~***(20)***~~][~~means a system of components of hardware and software, including the voting machine, used by a voter to cast a ballot and by the election officials to tabulate the votes on election day, which has been approved by the State Board of Elections for use in elections in the Commonwealth of Kentucky, pursuant to KRS 117.379 and 117.381~~].

Section 2. Accuracy Board.

(1) The Accuracy Board shall oversee the conduct of an accuracy test on each voting machine or voting system and the completion of an accuracy test checklist on each voting machine and voting system prior to the public examination.

(2) The Accuracy Board shall consist of the members of the county board elections, or the county board of elections may designate at least two (2) individuals to perform the duties of the Accuracy Board. The appointed Accuracy Board shall include not more than one (1) employee of a [~~voting machine~~]vendor or manufacturer of a voting machine or system.

(3) The Accuracy Board shall sign the certificate upon completion of the accuracy tests on all voting machines or voting systems and the completion of an accuracy test checklist on each voting machine and voting system.

(4) The Accuracy Board shall provide the certificate and all accuracy test materials to the chair of the county board of elections not later than the date established for the public examination.

Section 3. Preparation of the Test Deck.

(1) The Accuracy Board shall approve a test deck prior to an accuracy test.

(2) A test deck shall consist of all ballot styles to be used in the election or a predetermined series of votes for each ballot style to be used in the election.

(3) Multiple test desks may be approved by the county board of elections or Accuracy Board to complete an accuracy test on each voting machine or voting system.

(4) The test deck created shall include the following:

(a) One (1) or more ballots with a vote for each candidate for office and each option of a ballot question, if applicable;

(b) One (1) or more ballots that contain votes in excess of the total number of votes allowed by law to be cast by a voter;

(c) One (1) or more ballots that contain fewer votes than the total number of votes allowed by law to be cast by a voter;

(d) One (1) or more ballots that contain a straight-party vote, if applicable; and

(e) One (1) or more ballots that contain a write-in vote, if applicable.

(5) The Accuracy Board shall approve a tally sheet showing the results of each test deck.

Section 4. Accuracy Test Checklist.

(1) The county board of elections shall create an accuracy test checklist for each voting machine and voting system to be used in the election to be reviewed by the Accuracy Board after each accuracy test is performed on the voting machines or voting systems.

(2) An accuracy test checklist shall include the following:

(a) The date; assigned precinct, if applicable; description of device; serial number; firmware version identification; confirmation that the firmware version has been certified by the Kentucky State Board of Elections, pursuant to KRS 117.379 and 117.381; and the name of the person completing the accuracy test checklist;

(b) Boxes to be checked to confirm the following shall be performed during an accuracy test:

1. Visual inspection of the voting machine or voting system and all working parts to check for damage or defects;

2. Visual inspection of all power sources, cables, card slots, and locking devices, including an accounting for all cables, batteries, power cords, and locking devices; and

3. Completion of the processing of the test desk through the voting machine or voting system with a printout showing an errorless test upon comparison with the tally sheet. If the accuracy test may be performed on the voting system, then the checklist for each voting machine shall provide a space to indicate that an accuracy test was not performed on the individual voting machine because it was performed on the voting system; and

(c) A signature line for the person completing the accuracy test checklist.

Section 5. Conducting the Accuracy Test.

(1) The Accuracy Board shall supervise the completion of an accuracy test checklist for each voting machine and voting system and an accuracy test of each voting machine or voting system and the automatic tabulation equipment prior to the public examination.

(2) The Accuracy Board shall supervise the accuracy tests with the use of the test deck in the following manner:

(a) If the voting system to be used in the county on election day may be configured, in accordance with 31 KAR 2:010, with all possible ballot styles for every precinct to be used in the county during the election, the accuracy test shall be conducted by setting up at least one (1) voting machine connected to the voting system and testing each ballot style upon which voters may cast a ballot in the county during the election; or

(b) If the voting system to be used in the county during the election may only be prepared, in accordance with 31 KAR 2:010, with one (1) ballot style for each precinct, the accuracy test shall be conducted on each voting machine used in the county during the election.

(3) The Accuracy Board shall indicate whether the accuracy tests were performed on the voting system or on each voting machine on the accuracy test checklist for each voting system and each voting machine.

(4) An accuracy test shall be conducted by processing each test deck prepared under the direction of the county board of elections or the Accuracy Board for each voting machine or voting system to be used in the election.

(5) If an error in a voting machine or voting system is detected during an accuracy test, the cause shall be ascertained, the error shall be corrected, and the accuracy test shall be performed until an errorless count is ascertained.

(6) The Accuracy Board shall ensure that all sections of the accuracy test checklist shall be completed on each voting machine and voting system.

(7) A printout from each voting machine or voting system from the accuracy test shall be created, signed, and dated by the person conducting the test. The printout shall be attached to the accuracy test checklist for that voting machine or voting system.

(8) After reviewing all accuracy test checklists and applicable printouts, and after verifying that an errorless accuracy test was performed on each voting system or voting machine, the Accuracy Board shall sign the certificate.

(9) The accuracy test checklists, test decks, tally sheets, and signed printouts from the voting machines and voting systems shall be retained in a secure location until presentation to the county board of elections prior to the public examination.

Section 6. Setting of the Voting Systems After the Accuracy Test.

(1) The Accuracy Board shall supervise the setting of the voting machines and voting systems after the completion of an errorless accuracy test to prepare the voting machines and the voting systems to be turned over to the county board of elections before the public examination.

(2) The county clerk shall prepare or approve a verification sheet for each voting machine and voting system, containing the following:

(a) The assigned precinct name and number, if applicable;

(b) The serial numbers of the voting system components;

(c) The seal numbers;

(d) Counter number at the beginning of the election, if applicable;

(e) Counter number at the end of the election, if applicable;

(f) Signature line for the program administrator who sealed the voting system after the accuracy test; and

(g) Signature lines for the precinct judges to be signed on the election day.

(3) A voting machine shall be identified with the precinct number in which it shall be used during the election on the verification sheet, unless the voting machine is designated to be held in reserve for use pursuant to KRS 117.20[1]5. If a voting machine is held in reserve, the precinct number and name shall be assigned on the verification sheet when delivered to the precinct.

(4) The serial numbers of the voting machine and the seal numbers used to seal the voting machine shall be recorded on the verification sheet for the precinct in which the voting machine is to be used. The program administrator who sealed the voting machine shall sign the verification sheet.

(5) The program administrator shall set the voting machine counters to zero, in accordance with KRS 117.155, creating a printout showing that the voting machine has been set to zero or by verifying and recording that the counter is set to zero on the verification sheet.

(6) Copies of the verification sheet shall remain with the program administrator, the voting machine, and the county clerk.

Section 7. The County Board of Elections Review of the Accuracy Test.

(1) After the Accuracy Board has completed the accuracy tests, signed the certificate, and provided the accuracy test materials to the chair of the county board of elections, the county board of elections shall review the accuracy test materials.

(2) After ascertaining that an errorless accuracy test has been performed on each voting machine or voting system and the completion of an accuracy test checklist on each voting machine and voting system, the county board of elections shall verify that the voting machines and the voting systems are prepared for the public examination and shall sign the certificate.

(3) The county board of elections shall secure all test decks, tally sheets, printouts, accuracy test checklists, and the county board of elections' certificate with the election materials to be retained with the county clerk for the retention period prescribed by KRS 117.275***(15)***[***(16)***][(8)]. A copy of the county board of elections' certificate shall be attached to the minutes of the county board of elections' meeting in which the public examination occurs.

Section 8. Public Examination.

(1) When the voting machines and voting systems have been prepared for the election, the county board of elections shall review the verification sheets for each voting machine and voting system at the public examination conducted pursuant to KRS 117.165.

(2) The verification sheet that remains with the voting machine shall be signed by the precinct election judges on the election day.

(3) At the end of the election day the verification sheets shall be returned to the county clerk along with the election supplies and retained by the county clerk for the retention period prescribed by KRS 117.275***(15)***[***(16)***][(8)].

Section 9. Incorporation by Reference.

(1) "County Board of Elections Certificate of Completion of Accuracy Test", Form SBE 16, (10/2025)[September 2009], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. ***This material may also be obtained on the board's website at https://elect.ky.gov.***

FILED WITH LRC: January 12, 2026

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 2:030. E-poll book product certification.

RELATES TO: KRS 117.001***(9)***[***(8)***], 117.379(2)(c)

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.379(2)(c)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to administer the election laws of the state[properly carry out its duties]. KRS 117.379(2)(c) requires the State Board of Elections to promulgate administrative regulations that establish certification requirements for the approval and certification of e-poll book products used in the Commonwealth. This administrative regulation provides for those measures.

Section 1. [Beginning September 1, 2022,]All e-poll book products, as defined by KRS 117.001***(9)***[***(8)***], sought to be used in the Commonwealth shall be approved and certified if the examiners' report outlined in KRS 117.379(2)(c), and the State Board of Elections find that the e-poll book product meets the certification requirements outlined in Form SBE 2030, "Certification Procedures For E-Poll Book Products," 09/2022.

Section 2. Incorporated by Reference.

(1) "Certification Procedures For E-Poll Book Products," Form SBE 2030, 09/2022***, is incorporated by reference***.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. ***This material may also be obtained on the board's website at https://elect.ky.gov.***

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STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 3:010. Current address of Kentucky registered voters and distribution of voter registration lists.

RELATES TO: KRS 116.085, 116.155, 117.025, 117.225

STATUTORY AUTHORITY: KRS 117.015(1)(a)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the [Kentucky] State Board of Elections to promulgate administrative regulations necessary to administer the election laws of the state[properly carry out its duties]. KRS 117.025(3)(i) ***requires***[***instructs***] the board to furnish precinct lists to those statutorily qualified to receive them, ***and***[***as well as***] to those who may be deemed eligible to receive them at the board's discretion. This administrative regulation establishes the procedures for election officials and voters to follow to correct and maintain voter registration records and establishes standards for the State Board of Elections to follow when reviewing a request for a voter registration list.

Section 1. Definitions.

(1) "Advertisement" means any attempt by publication, dissemination, solicitation, or circulation to induce any person to enter into any obligation, or acquire any title or interest in any good or service.

(2) "Alphabetical labels" means labels of registered voters within the precinct with one (1) name per label and sorted in alphabetical order.

(3) "Alphabetical lists" means lists of registered voters generated from the statewide ***electronic*** voter registration ***system***[~~***database***~~] and sorted in alphabetical order by last name within a precinct that have the name, address, age code, party, gender, zip code, and five (5) year voting history of every voter in the precinct.

(4) "Duly qualified candidate" means any person who has filed:

(a) A letter of intent with the Kentucky Registry of Election Finance; or

(b) Nomination papers with the Office of the Secretary of State or county clerk.

(5) "Household labels by street order" means labels that are generated from the statewide ***electronic*** voter registration ***system***[~~***database***~~] and sorted by street address within the precinct with as many as four (4) names per label of the voters whose last name and address are an identical match.

(6) "Household labels by zip code order" means labels that are generated from the statewide ***electronic*** voter registration ***system***[~~***database***~~] and sorted by zip code within the county with as many as four (4) names per label of the voters whose last name and address are an identical match.

(7) "Sale" means any sale, rental, distribution, offer for sale, rental, or distribution, or attempt to sell, rent, or distribute any good or service to another.

(8) "Statewide ***electronic*** voter registration ***system***[~~***database***~~]" means a complete roster of all qualified voters within the state by county and precinct that the State Board of Elections is required to maintain pursuant to KRS 117.025(3)(a).

(9) "Street order lists" means lists of registered voters generated from the statewide ***electronic*** voter registration ***system***[~~***database***~~] sorted in street order within a precinct and contain the name, address, age code, party, gender, zip code, and a five (5) year voting history of every registered voter in the precinct.

(10) "Voter registration list" has the same meaning as the term "precinct list" as used in KRS 117.025(3)(i) and in this administrative regulation, and means a list of registered voters generated from the statewide ***electronic*** voter registration ***system***[~~***database***~~] in any format [~~in any given election precinct in the Commonwealth of Kentucky~~]that the State Board of Elections is required to furnish pursuant to KRS 117.025(3)(i)[~~(h)~~].

Section 2. Correction of Voter Registration Records.

(1) Each county clerk shall instruct the precinct election officers of the necessity for informing each voter that he or she shall correct any error existing in his or her address as it appears upon the [~~***precinct***~~] signature roster.

(2) Each precinct election officer shall instruct each voter to correct any error existing in his or her address as it appears upon the [~~precinct~~]signature roster provided under KRS 117.025(3)(b) or (c).

(3) Each voter shall, when he or she signs the [~~precinct~~] signature roster, correct any error existing in his or her address as it appears upon the [~~precinct~~] signature roster.

(4) Each county clerk shall take all steps necessary to correct and update each voter's address upon the statewide ***electronic*** voter registration ***system***[~~***database***~~].

Section 3. Interpretation of Commercial Use. Commercial use, as that term is used in KRS 117.025(3)(i)[~~(h)~~], shall be interpreted by the Board of Elections to mean:

(1) The use by the requester of the voter registration list, or any part thereof, in any form, for profit, the solicitation of donations, or for the sale or advertisement of any good, [~~,~~] service, or publication; or

(2) The transfer or sale of a voter registration list by the requester to any other person whom the requester knew or should have known intended to use the voter registration list, or any part thereof, in any form, for profit, the solicitation of donations, or for the sale or advertisement of any good, service, or publication.

Section 4. Exceptions to Commercial Use Interpretation. Commercial use shall not include use of a voter registration list, or any part thereof, for the following purposes:

(1) Use for scholarly, journalistic, political (including political fund raising), or governmental purposes; or

(2) Use for publication, broadcast, or related use by a newspaper, magazine, radio station, television station, or other news medium in its news or other publications or broadcasts.

Section 5. State Board to Prohibit Foreign Access to Voter Registration Lists. The board's discretion to furnish precinct lists to other persons, as stated in KRS 117.025(3)(i)[~~(h)~~], shall not extend to:

(1) Requests known to come from outside of the United States or from requestors known to be closely associated with other persons known to be located outside of the United States, or;

(2) Requests of which, the board believes if filled, would reasonably be expected to result in voter registration data leaving the United States.

Section 6. Requests for Voter Registration Lists. A request for voter registration lists shall be made by submitting a completed Request for Voter Registration Data, form SBE-84, to the State Board of Elections with payment of fees established in form SBE-84.

Section 7. Incorporation by Reference.

(1) "Request for Voter Registration Data", SBE 84, 10/2025[~~December 2021~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 West Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on the board's Web site at https://elect.ky.gov/Candidates/Pages/Request-Voter-Registration-Data.aspx.

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STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 4:020. Election costs and county clerk reimbursement and form.

RELATES TO: KRS 117.343

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.343

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to implement the provisions of KRS Chapter 117. KRS 117.343 authorizes the State Board of Elections to promulgate administrative regulations prescribing the method and forms for documenting and submitting claims by a county clerk to request reimbursement from the State Board of Elections for the costs of employing office personnel necessary for the conduct of elections, including registration and purgation of voters in the county. This administrative regulation establishes the method and form for a county clerk to request reimbursement from the State Board of Elections for the costs of employing office personnel necessary to conduct elections.

Section 1.

(1) County clerk reimbursement shall be based on the number of registered voters for the general election held in November.

(2) To apply for reimbursement, a county clerk shall complete and submit the original, signed ***SBE 2000*** form, State Board of Elections Reimbursement of Personnel Election Expenses, to the Kentucky State Board of Elections.

Section 2. Incorporation by Reference.

(1) "State Board of Elections Reimbursement of Personnel Election Expenses", SBE 2000, 10/25[~~November 2009~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. ***This material may also be obtained on the board's website at https://elect.ky.gov.***

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STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 4:031. Reporting.

RELATES TO: KRS 117.085, 117.086, 117.235, 117.255, 117.265, 117.275,117.355, 118.025, 118.215, 118.425, 118.770, 119.307

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.086(5), 117.275***(14)***[~~(15)~~], 117.355(4), 118.425(4)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to implement the provisions of KRS Chapter 117. KRS 117.355 requires the State Board of Elections to prescribe the forms for the precinct election sheriff and the county board of elections to report election irregularities and recommendations for improving the election process, to report special ballot and voter assistance usage statistics, and to report other information required by the state board. KRS 117.086(5) requires the State Board of Elections to prescribe a form on which the county board of elections shall report the number of rejected absentee ballots and the reasons for rejection of those ballots. KRS 118.425(4) requires the State Board of Elections to prescribe a form by which the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for office and the total number of votes for ***and***[~~an~~] against each of the ballot questions. KRS 117.275***(14)***[~~(15)~~] requires a secure online connection be available for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes. This administrative regulation establishes the procedure and forms for the county clerk, the county board of elections, and the precinct election sheriff to report election and voting data after the election.

Section 1. Reporting forms shall be filed and pursuant to:

(1) KRS 117.355(1), the precinct election sheriff shall file the Precinct Election Sheriff's Post-election Report, SBE 53, with the chair of the county board of elections and the local grand jury;

(2) KRS 117.355(2), the county board of elections shall file the County Board of Elections Post-election Report, SBE 54, with the State Board of Elections and the local grand jury;

(3) KRS 117.275***(6)***[~~(7)~~] and 117.355***(3)***[~~(2)~~], the county board of elections shall file the County Board of Elections Post-election Statistical Report, SBE 54A, with the State Board of Elections;

(4) KRS 117.355(2), the county board of elections shall file the County Board of Elections Precinct Election Officials Absence Report, SBE 54B, with the State Board of Elections;

(5) KRS 117.275***(11)***[~~(12)~~] and 117.086(4)(c), the county clerk shall file the County Board of Elections Provisional Ballots Issued to Voters and Counted, SBE 54C, with the State Board of Elections;[.]

(6) KRS 117.086(4)(a)-(b), the county clerk shall file the Absentee Ballot Report, SBE 33A, with the State Board of Elections;

(7) KRS 117.086(5), the county board of elections shall file the Number of Rejected Absentee Ballots and Reasons for Rejected Ballots, SBE 33B, as well as Number Of Issued, Returned, And Rejected Absentee Ballots To Military, Their Dependents, And Overseas Voters, SBE 33C; and

(8) KRS 117.275(11)-(12) and 118.425(4), the county board of elections shall file the Certification Official Count and Record of Election Totals, SBE 49, with the Secretary of State.

Section 2. Any form described in Section 1 of this administrative regulation that is capable of being recorded or filled automatically through the State Board of Elections' Voter Registration System may be deemed by the State Board of Elections as being transmitted following the successful capture of all required information by the Voter Registration System.

Section 3.

(1) Pursuant to KRS 117.275***(14)***[~~(15)~~], the State Board of Elections shall develop and maintain a platform with a secure online connection for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes for all primary, and regular elections, as well as special elections for statewide office, the General Assembly, and the United States Congress.

(2) Beginning at 6:00 p.m., prevailing time, on the day of a primary or regular election, as well as a special election for statewide office, the General Assembly, and the United States Congress, county boards of election shall use the secure online platform maintained by the State Board of Elections to transmit their county's unofficial election tally. The unofficial vote tally transmitted shall include precinct-by-precinct totals from counts of all mail-in absentee ballots, excused in-person absentee ballots, no-excuse in-person absentee ballots, and election day ballots, and shall include totals for those candidates who have filed a declaration of intent with the Secretary of State to be a write-in candidate pursuant to KRS 117.265(2), provided five (5) percent or more of the votes cast in that candidate's election, were for write-in candidates. Unofficial vote tallys transmitted using the secure online platform shall be transmitted using a computer-file-type and format selected by the State Board of Elections, which shall be selected following the certification of candidates by the Secretary of State pursuant to KRS 118.215(1), or immediately after receiving the Secretary of State's certification pursuant to KRS 118.770.

(3) The State Board of Elections shall display the tally information received from the county boards of election through the secure online transmittal platform on a secure ***website***[~~Web site~~] freely available to the general public. The display shall list precinct-by-precinct tallys for all candidates and questions, but shall only list a candidate's precinct absentee vote totals as cumulative.

(4) County boards of election or county clerks shall verify with the State Board of Elections that their county's unofficial vote tally has been successfully transmitted to the State Board of Elections no later than six (6) hours after the close of polls. If a county's tally is not completed six (6) hours after the close of polls, a representative of the county clerk's office shall update the State Board of Elections by telephone as to the status of the tally transmittal at the end of the sixth hour and then subsequently at the top of each following hour unless the transmittal is completed before that time.

Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Precinct Election Sheriff's Post-election Report", SBE 53, 04/2024;

(b) "County Board of Elections Post-election Report", SBE 54, 04/2024;

(c) "County Board of Elections Post-election Statistical Report", SBE 54A, 04/2024;

(d) "County Board of Elections Precinct Election Officials Absence Report", SBE 54B, 04/2024;

(e) "County Board of Elections Provisional Ballots Issued to Voters and Counted", SBE 54C, 10/2025[~~04/2024~~];

(f) "Absentee Ballot Report", SBE 33A, 04/2024;

(g) "Number of Rejected Absentee Ballots and Reasons for Rejected Ballots", SBE 33B, 04/2024; [~~and~~]

(h) Number Of Issued, Returned, And Rejected Absentee Ballots To Military, Their Dependents, And Overseas Voters, SBE 33C, 10/2025; and

(i) "Certification Official Count and Record of Election Totals", SBE 49, 10/2025[~~04/2024~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained on the board's ***website***[~~***Web site***~~] at https://elect.ky.gov.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 4:100. Evaluation of precinct election officers.

RELATES TO: KRS 117.045[~~***(1)(c)***~~]

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.045(1)(c)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 117.045(1)(c) requires the State Board of Elections to promulgate an administrative regulation establishing evaluation procedures ***that***[~~***which***~~] county boards of elections may use to qualify persons nominated to serve as precinct elections officers. This administrative regulation establishes those evaluation procedures.

Section 1. In evaluating if a person nominated to serve as a precinct election officer is qualified to serve in that capacity, a county board of elections may use the following evaluation procedures:

(1) Determine if the person submitted a signed statement in accordance with KRS 117.045(2);

(2) Determine if the person meets the qualifications ***established***[~~***set forth***~~] in KRS 117.045(9); and

(3) Determine if the person has a history of refusing to follow election procedures or has demonstrated a [~~complete~~]lack of understanding of proper election procedures while serving as a precinct election officer in the past.

Section 2. A county board of elections shall refuse to appoint a person nominated to serve as a precinct election officer if it determines that the person is not qualified based on the evaluation procedures ***established***[~~***set forth***~~] in Section 1 of this administrative regulation.

Section 3. Once the county board of elections has appointed the precinct election officers, the full name, address, phone number, and Social Security number, if available, of each person appointed shall be submitted to the State Board of Elections within three (3) days of the appointment on SBE 22, List ***for***[~~***of***~~] Appointment of Precinct Election Officers.

Section 4. Incorporation by Reference.

(1) "List for Appointment of Precinct Election Officers", SBE 22, 10/2025[~~February 2007~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. ***This material may also be obtained on the board's website at https://elect.ky.gov.***

FILED WITH LRC: January 12, 2026

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 4:120. Additional and emergency precinct officers.

RELATES TO: KRS[~~117.015,~~] 117.045

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.045(6)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties[~~implement the provisions of KRS Chapter 117~~]. KRS 117.045(6) requires the State Board of Elections to promulgate an administrative regulation establishing conditions under which additional precinct officers may be approved. This administrative regulation establishes the conditions under which additional precinct officers may be approved[~~,~~] and establishes the form of the list of emergency election officer appointments required by KRS 117.045(5).

Section 1. Request to Appoint Additional Precinct Officers. A county board of elections seeking permission to appoint additional precinct officers, pursuant to KRS 117.045(6), shall file with the State Board of Elections SBE 23, Additional Precinct Officer Request, that contains the following information:

(1) The precinct number of each precinct for which approval of additional officers is sought;

(2) For each designated precinct, the reasons additional precinct officers are necessary;

(3) For each designated precinct, whether one (1) or two (2) additional precinct officers are requested; and

(4) The election for which approval is sought, designating whether the election is a primary, general, or special election.

Section 2. Approval of Request.

(1) The State Board of Elections may approve a request to appoint additional precinct officers if the request sets forth a reasonable explanation why voting may not be conducted safely and expediently unless additional precinct officers are appointed.

(2) Approval of a request to appoint additional precinct officers shall be granted for one (1) election only.

(3) Approval of a request to appoint additional precinct officers may authorize a county board of elections to appoint one (1) or two (2) additional precinct officers.

(4) If a county board of elections requests and is approved to appoint two (2) additional precinct officers:

(a) The two (2) additional precinct officers shall not be of the same political party; and

(b) If it appears from the list of precinct officers submitted to the State Board of Elections pursuant to KRS 117.045(8) that the two (2) additional precinct officers are of the same political party, then the State Board of Elections shall revoke its approval of the request to appoint additional precinct officers and the appointments shall be invalid.

Section 3. Duties of Additional Precinct Officers. The duties of additional precinct officers shall be prescribed by the county board of elections.

Section 4. Request to Appoint Emergency Precinct Officers. A county board of elections seeking permission to appoint emergency precinct officers pursuant to KRS 117.045(5) shall file with the State Board of Elections SBE 24, Emergency Precinct Officer Request, which contains the following information:

(1) The precinct number of each precinct for which approval of additional officers is sought;

(2) The name of the officer requested, the registered party of the officer, and the party the officer will be serving as for the specified election;

(3) The election for which approval is sought, designating whether the election is a primary, general, or special election; and

(4) A description of the efforts made to acquire precinct officers in the party, democrat or republican, which did not have enough workers as required by KRS 117.045(5).

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Additional Precinct Officer Request", SBE 23, 10/2025[~~January 2015 edition~~]; and

(b) "Emergency Precinct Officer Request", SBE 24, 10/2025[~~August 2007~~] edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. ***This material may also be obtained on the board's website at https://elect.ky.gov.***

FILED WITH LRC: January 12, 2026

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 4:150. Tracking registration of voters identifying with political organizations and groups, and voters of independent status.

RELATES TO: KRS ***116.045(8), 117.015, 117.025,*** 118.015 (1), (10), (11)[***, 116.045(8)***][~~KRS 117.015(1), 118.015 (8), (9), 116.045 (8)~~]

STATUTORY AUTHORITY: KRS 116.045(8), 117.015(1)(a)[~~(1)~~]

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 116.045 (8) requires the State Board of Elections to promulgate administrative regulations to provide for tracking of the registration of voters identifying with political organizations and political groups as defined in KRS 118.015, and voters of independent status. This administrative regulation establishes those requirements.

Section 1. Definitions.

(1) "Board" means the State Board of Elections or their designee as defined in KRS 117.015 and 117.025.

(2) "Political group" is defined by KRS 118.015(11)[~~(f)[(9)~~].

(3) "Political organization" is defined by KRS 118.015(10)[~~(f)[(8)~~].

(4) "Political party" is defined by KRS 118.015(1).

(5) "Track" means compiling information from the statewide voter registration system for the purposes of KRS 116.045(8).

Section 2. Tracking Process.

(1) The board shall track the registration of voters identifying with political organizations and political groups known as:

(a) Constitution Party;

(b) Green Party;

(c) Kentucky Party***;***

(d)[~~(c)~~] Libertarian Party;

(e)[~~(d)~~] Reform Party; and

(f)[~~(e)~~] Socialist Workers Party.

(2) The board shall track the registration of voters of independent status.

(3) Information tracked ***pursuant to***[~~***under***~~] KRS 116.045(8) shall be retained by the board as a permanent record and in accordance with the requirements of the Department of Libraries and Archives, KRS 171.410 to 171.740 and 725 KAR Chapter 1.

FILED WITH LRC: January 12, 2026

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 4:160. Elections Emergency Contingency Plan.

RELATES TO: KRS 39A.100, 117.045, 117.065, ***117.066,*** 117.085, 117.165, 117.187, ***117.275***[~~117.285~~], Chapter 424

STATUTORY AUTHORITY: KRS 39A.100(1)(k), 117.015(1)(b)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(b) requires the State Board of Elections to promulgate administrative regulations establishing a procedure for election officials to follow if an election has been suspended or delayed as described in KRS 39A.100(1)(k). This administrative regulation establishes this procedure.

Section 1. Definitions.

(1) "Affected county board of elections" means a county board of election that is required to suspend or delay an election pursuant to an executive order issued pursuant to KRS 39A.100(1)(k).

(2) "Affected county clerk" means a county clerk in a county that is required to suspend or delay an election pursuant to an executive order issued pursuant to KRS 39A.100(1)(k).

(3) "Affected election area" means an election area for which a state of emergency has been declared for all or part of an election area as specifically described by the Governor in an executive order issued pursuant to KRS 39A.100(1)(k).

(4) "Elections Emergency Contingency Plan" means the procedures established by a county board of elections to address the specific needs of their county in the event the Governor issues an executive order delaying or rescheduling an election pursuant to KRS 39A.100(1)(k).[~~ this administrative regulation for election officials to follow if an election has been suspended or delayed pursuant to KRS 39A.100(1)(k) through the Governor's executive order.~~]

(5) "Precinct election officer" means an individual who has been appointed to serve as an election officer in a precinct in accordance with the provisions of KRS 117.045.

(6) "Voting place" means a place for voting established in accordance with the provisions of KRS 117.065 and KRS 117.066.

Section 2. General Provisions.

(1) [~~Election officials shall follow the Elections Emergency Contingency Plan as specifically mandated by this administrative regulation in accordance with the Governor's executive order, pursuant to KRS 39A.100(1)(k), suspending or delaying an election.~~]

[~~(2)~~] The procedures in the general election laws, KRS Chapters 116 to 121A, shall be applicable to an election conducted pursuant to the Elections Emergency Contingency Plan, unless superseded by[~~:~~]

[~~(a)~~] the Governor's executive order, pursuant to KRS 39A.100(1)(k)[~~; or~~]

[~~(b)~~] [~~Provisions of this administrative regulation~~].

(2)[~~(3)~~] County boards of elections shall establish procedures to address the specific needs of their county in the event the Governor issues an executive order delaying or rescheduling an election pursuant to KRS 39A.100(1)(k)[~~to implement the provisions of this administrative regulation at the local level~~] and shall file the [***"***]County Board of Elections Notice of Establishment of Local Elections Emergency Contingency Plan Procedures***,***[***"***] Form SBE

20, on or before the first day of March of each year in which a general election occurs.

(3)[(4)] County boards of elections shall, in accordance with KRS 117.187, train all precinct election officers prior to each primary and general election on the procedures established by the county boards of elections to implement the Elections Emergency Contingency Plan.

Section 3. Notification. After the Governor has issued an executive order pursuant to KRS 39A.100(1)(k), the State Board of Elections shall notify all county clerks in the affected election area or statewide, in accordance with the Governor's executive order.

Section 4. Voting Places. After notification from the State Board of Elections of an executive order suspending or delaying an election, an affected county board of elections shall:

(1) Identify the number of voting places that are functional, that can be repaired, and that have been destroyed; and

(2) Establish new voting places, if needed, in a manner consistent with KRS 117.065 and KRS 117.066.

Section 5. Precinct Election Officers. If an affected county board of elections determines that new precinct election officers are required because of an emergency, the affected county board of elections shall use the same list of precinct election officers from the suspended election and may create a new list of additional precinct election officers in a manner consistent with the provisions of KRS 117.045.

Section 6. Procedures for Conducting an Election Rescheduled Prior to the Original Election Day.

(1) Notification. After notification from the State Board of Elections of an executive order suspending or delaying an election, prior to the original date scheduled for an election by law, the affected county clerk shall ensure that the public receives prompt notification of the suspension or delay of an election in accordance with KRS Chapter 424, if possible, and any other means available.

(2) Absentee voting. After notification from the State Board of Elections of an executive order suspending or delaying an election, an affected county clerk shall immediately:

(a) Suspend all forms of absentee voting being conducted[pursuant to KRS 117.085(1)(c)]; and

(b) Secure all voting machines being used for all forms of absentee voting until absentee voting may be resumed[in accordance with KRS 117.085(1)(c)].

(3) Mail-in absentee ballots. After notification from the State Board of Elections of an executive order suspending or delaying an election, an affected county clerk shall immediately deposit all unvoted mail-in absentee ballots and related materials in a secured and locked storage container or area until mail-in absentee voting may be resumed [in accordance with KRS 117.085(1)(c)].

(4) Examination of voting equipment.

(a) The date of examination of voting equipment, conducted pursuant to KRS 117.165, which has been previously noticed, but is affected by the suspension or delay of an election, shall be re-noticed pursuant to KRS Chapter 424, if possible, and any other means available.

(b) The affected county board of elections shall not conduct a reexamination of the voting equipment if the affected county board of elections has already conducted the examination required by KRS 117.165 prior to receipt of the notice of the rescheduled election.

Section 7. Procedures for Conducting an Election Rescheduled After the Commencement of the Original Election Day.

(1) Notification. After notification from the State Board of Elections of an executive order suspending or delaying an election after the commencement of an election, the affected county clerk shall ensure that the public receives immediate notification of the suspension of the election and the date of the rescheduled election by any means possible, including all electronic media available and notice in accordance with KRS Chapter 424.

(2) Suspend general voting. After notification from the State Board of Elections of an executive order suspending or delaying an election, an affected county board of elections shall immediately:

(a) Suspend general voting being conducted on all voting systems;

(b) Instruct the precinct election officers to secure all voting machines being used for general voting until voting may be resumed in accordance with the executive order issued pursuant to KRS 39A.100(1)(k);

(c) Instruct the precinct election officers to not closeout or tally the votes in the voting machines. The precinct election officers shall ensure that all seals on the voting machines are intact prior to storage in a secure location;

(d) Instruct the precinct election officers to record the public counter number on the form furnished by the county board of elections. The form shall be signed by all present precinct election officers; and

(e) Instruct the precinct election officers to return all election materials to the county board of elections.

(3) Ballots and election materials. After notification from the State Board of Elections of an executive order suspending or delaying an election, an affected county clerk shall immediately deposit all election materials, including unvoted absentee ballots, paper ballots, provisional ballots, e-poll books[precinct signature rosters], and related materials, in a secured and locked storage container or area until voting may be resumed in accordance with the executive order issued pursuant to KRS 39A.100(1)(k).

(4) Conduct of rescheduled election.

(a) If the e-poll books[precinct signature roster] and voting machines are intact from the original election[date], then only those persons duly registered to vote during the originally scheduled election[upon the original election date] who did not previously vote [on that date]shall be entitled to vote on any[the] additional day of voting [in that precinct].

(b) If the e-poll books[precinct signature rosters]or the voting machines are not intact from the original election[date]:

1. Any person duly registered to vote during[upon] the originally[original]scheduled election[date], regardless of whether that person previously voted during [on] the originally[original] scheduled election[date], shall be entitled to vote on any[the] additional day of voting in that precinct;

2. If the e-poll books[signature rosters] are destroyed or incomplete and the voting machines are intact, the county board of elections shall acquire replacement e-poll books[use a new set of precinct signature rosters provided by the State Board of Elections], clear the voting machines of all votes, and reset the machines for use in the rescheduled election; and

3. If the voting machines are not intact, the county board of elections shall repair, replace, or acquire additional[new] voting machines.

(c) [Voting on the rescheduled election day shall be accomplished by physically appearing at the voting place.]The time set by law for casting or canvassing a military, mail-in absentee, or special presidential ballot shall not be extended by the executive order rescheduling the election. Any mail-in absentee, military, or special presidential ballot duly received on the original election date shall be valid.

Section 8. Release and Certification of Election Returns.

(1) If a statewide election is affected by the suspension or delay of an election in an affected election area pursuant to KRS 39A.100 (1)(k):

(a) County boards of elections not located in the affected election area that have races affected by the suspension or delay of an election in an affected election area shall:

1. Withhold returns for affected races until the county boards of elections in those counties where an election has been suspended or delayed have conducted rescheduled elections and are able to certify returns to the Secretary of State;

2. Not release any vote totals for the affected races until the suspended election has been completed in the affected counties;

3. Instruct the precinct election officers to not closeout or tally the votes in the voting machines;

4. Instruct the precinct election officers to remove the memory device that stores the vote totals on each voting machine, to secure and seal each voting machine, and to not post the vote totals of the

affected races at the precinct as required by KRS 117.27[8]5(3). The precinct election officers shall immediately return all election materials to the county board of elections; and

5. Tally the vote totals from each precinct and only post at the county clerk's office the vote totals for those races not affected by the suspension or delay pursuant to KRS 39A.100(1)(k).

(b) The State Board of Elections shall notify the county boards of elections not located in the affected election area that have races affected by the suspension or delay of an election in an affected election area if vote totals are to be delayed and when vote totals shall be certified to the Secretary of State.

(2) If a county election, or any part of a county election, is suspended, the vote totals from an affected race shall not be released by the affected county board of elections until after the polls have closed in those voting locations[precincts] with delayed elections.

Section 9. Post-Election Deadlines. All post-election timeframes and deadlines not specifically addressed in the provisions of this administrative regulation that are enumerated in general election laws shall be suspended until the rescheduled election occurs, in accordance with the Governor's executive order, pursuant to KRS 39A.100(1)(k).

Section 10. Incorporation by Reference.

(1) "County Board of Elections Notice of Establishment of Local Elections Emergency Contingency Plan Procedures", SBE 20,10/2025[(December 2005 edition)], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. ***This material may also be obtained on the board's website at https://elect.ky.gov.***

FILED WITH LRC: January 12, 2026

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 4:220. Recount procedures.

RELATES TO: KRS 62.020, 117.035, 118.025, 120.095, 120.157, 120.185, 120.260, 120.290

STATUTORY AUTHORITY: KRS 117.015(1)(a)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)***(a) authorizes***[***requires***] the State Board of Elections, as an independent agency of state government, to administer the election laws of the state. KRS 120.095, 120.157, 120.185, 120.260, and 120.290 all authorize the post-election recounting of ballots cast, but are all largely without procedures for how the event is required to occur. This administrative regulation establishes procedures for the recounting of ballots for an established standard throughout the Commonwealth.

Section 1. Definition. "Recount" means a post-election retallying of ballots cast in a primary, general, or special election, as authorized ***pursuant to***[***under***] KRS 120.095, 120.157, 120.185, 120.260, or 120.290.

Section 2. Locations. Upon identifying that a recount will be taking place, an affected county board of elections shall identify a suitable location, within the county, where the recount ***may***[***can***] take place.

(1) A suitable location shall be one (1) where all of the voting equipment and ballot boxes required for the recount can be housed in one (1) location and there is ample space for the personnel required for the task and all authorized observers, who shall have a dedicated area within the location to witness the recount.

(2) If a recount is to occur pursuant to KRS 120.290, the Franklin County Clerk shall assist the Franklin Circuit Court in finding a location for the commencing of the recount if the Court finds the courthouse at Frankfort unsuitable for the event.

Section 3. Recount Personnel.

(1) Pursuant to KRS 117.035(5), an affected county board of elections may employ a bipartisan staff sufficient to carry out the duties of the recount. Once a county board identifies that a recount will be taking place, the board shall immediately seek out citizens of the county who may wish to work for the county board on a temporary basis as recount officials.

(2) County boards shall recruit enough citizens of the county to work as recount officials so that the recount may be completed before any statutory deadline.

(a) Citizens hired to work as recount officials shall be registered voters of the county in which they desire to work.

(b) Recount officials shall be paid an hourly wage for their work during the entirety of the recount process. The hourly wage shall be set uniformly for all recount officials by the county board of elections at a rate that is both prevailing in the jurisdiction at the time for the type of work to be done and that is high enough to entice applicants qualified for a short-term, temporary assignment.

(c) Before any recount official shall be allowed to work, the individual shall take the oath found in Section 228 of the Kentucky Constitution, which shall be administered by any officer authorized under KRS 62.020.

Section 4. Procedures as to Election Vendors.

(1) Upon identifying that a recount will be taking place, county clerks shall work with their voting equipment vendors to begin programming, distributing, and setting the voting equipment necessary for the recount.

(2) Election equipment shall be set to isolate the race or question subject to the recount and the straight-party option, if applicable.

Section 5. Initiating the Recount.

(1) Before recount proceedings may begin, on the day fixed for the recount, the county board of elections shall meet to confirm the integrity of the ballots subject to the recount.

(2) The confirmation of the integrity of the ballots shall be reflected in the recorded minutes of the meeting of the county board of elections.

(3) Absent a showing of clear and convincing evidence that the ballots have been purposefully disturbed and tampered with, the integrity of the ballots shall be proven.

Section 6. Securing the Integrity of the Recount.

(1) Before members of the recount teams shall be allowed to handle individual ballots, each member shall present their hands and fingernails to the members of the county board of elections for visual inspection. Before proceeding to handle ballots, county board of elections members shall confirm that each recount official's hands and fingernails are clean enough so as to not transfer any ink, lead, or other markings onto the ballots.

(2) Only red ink pens, a blank pad of paper, and manilla envelopes large enough to contain multiple ballots shall be allowed in any area in the direct proximity of voting equipment or ballots during the counting of ballots.

(3) The use of cell phones or other electronic devices shall not be permitted within the direct proximity of voting equipment or ballots. Any capturing of photographic or video images of ballots shall be prohibited.

(4) Food or drink shall not be permitted in any area in the direct proximity of voting equipment or ballots without prior authorization from the county board of elections.

Section 7. Before Voting Equipment is Opened.

(1) The county board of elections or the county clerk shall split the recount officials into recount teams of two (2) so that each team contains individuals registered of differing political party affiliations.

(2) Each recount team shall be assigned to only one (1) piece of voting equipment at any one (1) time, and a piece of voting equipment shall not have more than one (1) recount team operating it at any one (1) time.

(3) Before a piece of voting equipment is opened by a recount team, the information from the voting equipment's Machine Verification Form shall be transposed onto the Form SBE 82, Recount Tabulation Form.

Section 8. Opening the Voting Equipment.

(1) Once a recount team opens a piece of voting equipment, the seal number, beginning counter number, and lifetime counter number shall be checked to match the Machine Verification Form.

(2) Once the ballot box or tub containing the ballots is opened, the seal number shall be recorded on the Form SBE 82, Recount Tabulation Form.

(3) Each ballot from the ballot box or tub shall be removed and placed on a segregated table next to the voting equipment, and the broken seal shall be placed inside the ballot box or tub. Ballots from one (1) ballot box or tub shall not be comingled with any other materials, including ballots from another ballot box or tub. Ballots shall not be left outside of a ballot box or tub unattended.

Section 9. Procedure to Recount Ballots.

(1) Each ballot removed from a ballot box or tub for a recount shall be scanned back through the piece of voting equipment from which the ballot box or tub was originally associated, one (1) ballot at a time. If a county is in possession of a separate piece of voting equipment designed and regularly used to count larger amounts of ballots, the use of the voting equipment shall be authorized.

(2) Scanned ballots shall be counted by the electronic voting equipment in accordance with 31 KAR 6:030, Section ***2***[***4***](1), and the cumulative totals for each slate of candidates shall be recorded on the Form SBE 82, Recount Tabulation Form.

(3) If a ballot does not scan through the piece of voting equipment on the first attempt, each member of the associated recount team shall attempt to scan the ballot one (1) additional time each. If, after three (3) unsuccessful attempts, a ballot does not scan, it shall be set aside for later adjudication.

(4) Once only those ballots set aside remain, they shall be adjudicated as one (1) of three (3) types:

(a) An overvote, meaning that upon visual inspection of the ballot, more than one (1) slate of candidates appears to have been selected by the voter;

(b) An undervote, meaning that upon visual inspection, no slate of candidates appears to have been selected by the voter on the ballot; or

(c) A damaged ballot, no longer capable of being scanned into the voting equipment because of damage sustained to the physical ballot, but clearly having a selection for only one (1) slate of candidates or that slate's straight-party option.

(5) The number of undervotes, overvotes, and damaged ballots shall be recorded on the Form SBE 82, Recount Tabulation Form.

(6) The recount officials shall place the cumulative number of undervotes in a manilla envelope, seal the envelope with tape, label it with the word "undervotes," and then sign it alongside the date and time of their signature. This procedure shall then be followed for envelopes labeled "overvotes" and "damaged ballots." If the cumulative number of undervotes, overvotes, or damaged ballots will not fit inside one (1) manilla envelope, multiple envelopes may be used.

(7) Once the undervotes, overvotes, and damaged ballots are placed in envelopes, the envelopes shall be placed back in the ballot box or tub on top of the ballots already recounted by the electronic voting equipment.

(8) Once a conclusive accounting has been reached for all ballots removed from the ballot box or tub, the voting equipment shall be secured with a seal of a color not previously used in the election, and the serial number of the seal shall be recorded on the Form SBE 82, Recount Tabulation Form.

(9) The Form SBE 82, Recount Tabulation Form**,** shall be signed by the recount team members and all members of the county board of elections.

(10) Once this process is complete for one (1) piece of voting equipment, a recount team may move on to a new piece of voting equipment and begin the process of recounting the ballots found within.

(11)

(a) Once all ballots have been counted by the electronic voting equipment and all Form SBE 82, Recount Tabulation Forms**,** have been completed, the county clerk shall scan and email all Form SBE 82, Recount Tabulation Forms**,** to the State Board of Elections.

(b) For a recount conducted under KRS 120.157, the State Board of Elections shall examine the statewide Form SBE 82, Recount Tabulation Forms**,** and tally the results submitted.

1. If the tally of results submitted shows that the count of ballots by the electronic voting equipment did not result in a margin of victory of 0.25% or less, the State Board of Elections shall notify each county that their recount is complete.

2. If the tally of results submitted shows that the count of ballots by the electronic voting equipment did result in a margin of victory of 0.25% or less, the State Board of Elections shall tally the total number of overvotes and damaged ballots reported on the submitted Form SBE 82, Recount Tabulation Forms.

3. If the cumulative number of overvotes and damaged ballots is large enough to overcome the machine-established margin of victory, the State Board of Elections shall notify the counties that they are to meet immediately to count the overvotes and damaged ballots.

4. If the cumulative number of overvotes and damaged ballots is not large enough to overcome the machine-established margin of victory, the State Board of Elections shall notify the counties that their recount is complete.

(12) Upon the need for a count of overvotes and damaged ballots, the county board of elections shall meet to remove all manila folders containing overvotes and damaged ballots. Overvotes and damaged ballots shall be adjudicated by the full county board of elections using the procedures described in 31 KAR 6:030, Section ***2***[***4***](2) and (3). Overvotes shall also be subject to the allowances of 31 KAR 6:030, Section ***2***[***4***](4).

(a) Each adjudicated ballot, shall, by majority vote of the county board of elections, result in a vote for either:

1. One (1) valid candidate, one (1) valid slate of candidates, or valid answer to a question;

2. One (1) valid write-in candidate or slate of candidates; or

3. No candidate, slate of candidates, or answer to a question.

(b) The adjudication of each ballot shall be recorded onto the Form SBE 82, Recount Tabulation Form.

(c) After overvotes and undervotes are adjudicated, they shall be placed, along with the original manila envelope, in a new manila envelope. The county board of elections shall seal the envelope with tape, label it as "overvotes," or "damaged ballots," accordingly, and then sign it alongside the date and time of their signature.

Section 10. Reporting of Recount Totals.

(1) Once every piece of voting equipment has been opened, all ballots have been recounted, and a conclusive recount total for each piece of equipment has been established, the county board of elections shall transfer the totals for each candidate or question from each Form SBE 82, Recount Tabulation Form onto a Form SBE 49, Official Count and Record of Election Totals.

(2) The same totals recorded onto the Form SBE 49, Official Count and Record of Election Totals shall also concurrently be input into an online portal belonging to the Secretary of State if available.

(3) The members of the county board of elections shall affix their signatures to the completed Form SBE 49, Official Count and Record of Election Totals, which shall mark the completion of the recount.

(4) Once the Form SBE 49, Official Count and Record of Election Totals is signed, the county board of elections shall fax a copy the document to the office of the Secretary of State, no later than 4:00 p.m., local time, on the day following the completion of the county's recount. Each county clerk shall retain a copy of the completed Form SBE 49, Official Count and Record of Election Totals for their records and mail the original signed copy to the office of the Secretary of State.

Section 11. Reimbursement of Recount Costs. All costs associated with the recount proceedings, including items such as personnel expenses and vendor charges, shall be recorded and documented by the county clerk.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Recount Tabulation Form", Form SBE 82, 04/2024; and

(b) "Official Count and Record of Election Totals", Form SBE 49, 10/2025[~~04/2024~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at https://elect.ky.gov.

FILED WITH LRC: January 12, 2026

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 6:010. State-based administrative complaint procedure.

RELATES TO: KRS Chapter 13B, 117.015(1)(a), 52 U.S.C. ***21081***-21112[~~42 U.S.C. 15512~~]

STATUTORY AUTHORITY: KRS 117.015(1)(a), 52 U.S.C. 21112[~~42 U.S.C. 15512(a)~~]

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the Kentucky State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties in the administration of the election laws. The Help America Vote Act of 2002, 52 U.S.C. 21112[~~42 U.S.C. 15512, Section 402(a)~~], requires the establishment of a state-based administrative complaint procedure to remedy grievances in elections for federal offices. This administrative regulation establishes an administrative complaint procedure to remedy grievances in elections for federal offices.

Section 1. Definitions.

(1) "Board" means the State Board of Elections or their designee as defined in KRS 117.015 and 117.025.

(2) "Complainant" means the person who files a complaint under this administrative regulation.

(3) "Federal election" means a primary, general, or special election at which a federal office appears on the ballot.

(4) "Presiding officer" means the person appointed by the executive director of the board to conduct a hearing on a complaint.

(5) "Respondent" means any state or local election official whose actions are alleged, in a written complaint, to be in violation of Title III of the Help America Vote Act of 2002, 52 U.S.C. §§ 21081 – 21102[~~42 U.S.C. 15481~~].

(6) "State or local election official" means the Secretary of State, the State Board of Elections, a county clerk, a county board of elections, or any officer, agent, or appointee thereof.

(7) "Title III" means Title III of the Help America Vote Act of 2002, Pub.L. 107-252, codified at 52 U.S.C. §§ 21081 – 21102[~~42 U.S.C. 15481~~].

Section 2. Applicability. This administrative regulation shall be applicable to elections for federal office.

Section 3. Complaint Process.

(1) Any person who believes there has been a violation of any provision of Title III by any election official may file a written complaint with the executive director of the board.

(2) All complaints shall:

(a) Be limited to violations of the requirements placed upon the states by Title III, which are limited to claims for violations of the following:

1. Standards for voting systems;

2. Requirements for provisional voting and voting information; and

3. Requirements for computerized statewide voter registration lists and for voters who register by mail.

(b) Be submitted in writing on the Complaint and Affidavit for Violation of Title III of the Help America Vote Act of 2002, and signed by the complainant under oath or affirmation before an officer authorized to administer oaths.

(c) Include the full name, address, and telephone number of the complainant.

(d) Include a description of the alleged violation sufficient to apprise the board and the respondent of the nature and specific allegations of the complaint.

(e) Be sent by mail or by delivery to the Offices of the State Board of Elections at 140 Walnut Street, Frankfort, Kentucky 40601.

(f) Be filed within ninety (90) days of the alleged violation of Title III.

Section 4. Processing the Complaint and Response.

(1) The executive director of the board may refuse to accept a complaint if the complaint does not comply with the requirements of Section 3 of this administrative regulation.

(2) If a complaint does not comply with Section 3 of this administrative regulation, the executive director of the board shall, within three (3) days of receipt of the complaint, send the complainant a notice explaining the areas of noncompliance in the complaint.

(3) The complainant shall correct a deficiency within seven (7) working days of receipt of notice of the deficiency. If the complainant fails to correct a deficiency or fails to state a violation of Title III, the board shall dismiss the complaint.

(4) If a complaint complies with Section 3 of this administrative regulation and states on its face a Title III violation, the board shall accept the complaint and the complaint shall be deemed filed on the date of receipt at the offices of the board.

(5) Upon receipt of a complaint, the board shall send a copy to the respondent along with a request for a response.

(6) The respondent shall send a response to the board within ten (10) days of the date the respondent received notice from the board of the filed complaint.

(7) Upon receipt of the respondent's response, the board shall within three (3) days, send the complainant a copy of the respondent's response and a notice explaining the complaint may be resolved informally by agreement of the parties or the complainant may request a hearing. The complainant shall have ten (10) days from the date the notice is received to request an informal resolution or a hearing.

(8) The executive director of the board shall be responsible for arranging the date, time, and place for hearings, and appoint a qualified individual to serve as the presiding officer.

(9) If at any time during the proceedings, the board believes that the person appointed by the executive director of the board is not performing his or her duties as presiding officer**,** in the interest of justice and to ensure the fair administration of Title III, the board may withdraw the appointment of the presiding officer and appoint another qualified individual to serve as presiding officer.

(10) The executive director shall send a notice of the identity of the presiding officer, time, date, and location of the hearing to the parties at least seven (7) days before the date scheduled for the hearing.

(11) The board shall make a final determination of the complaint within ninety (90) days of the receipt of the complaint, unless the complainant agrees in writing to an extension.

Section 5. Consolidation. Upon its own motion, or upon motion of any party, the board or presiding officer may consolidate multiple complaints into a single proceeding if there exist common parties, common questions of law or fact, or both, or other circumstances as justice and the administration of ***Title III***[~~***the Act***~~] require.

Section 6. Severance. Upon its own motion, or upon motion of any party, the board or the presiding officer may, for good cause, order any proceeding severed with respect to some or all issues or parties.

Section 7. Hearings.

(1) Hearings shall be conducted in accordance with KRS Chapter 13B.

(2) Hearings shall be recorded. A transcript of the hearing shall not be made except upon request of a party who shall bear the cost of transcription. Any other party may request a copy of the transcript at his or her own expense.

(3) Hearings may be held and testimony taken by teleconference or video conference with notice to the parties.

(4) If any party fails, without good cause, to attend the hearing, they may be held in default and have a determination made against them.

(5) All testimony shall be taken under oath or affirmation.

(6) The complainant shall have the burden of proof.

Section 8. Presiding Officer's Findings of Fact, Conclusions of Law, and Recommended Order.

(1) Within fourteen (14) days of the completion of the hearing, the presiding officer shall issue a findings of fact, conclusions of law, and recommended order to the board setting forth any findings of a past, present, or potential violation of Title III, if supported by the evidence presented, and a recommended remedy.

(2) The recommended remedy shall be directed at the improvement of processes or procedures governed by Title III, consistent with federal and state law.

(3) The recommended remedy shall not include money damages, costs, or attorney fees and shall be limited to bringing the election practice or election system referred to in the complaint into compliance with Title III.

Section 9. Final Determination.

(1) The board shall review the presiding officer's findings of fact, conclusions of law, and recommended order at the next scheduled meeting of the board.

(2) The board may adopt the presiding officer's findings of fact, conclusions of law, and recommended order as its final determination or issue its own findings of fact, conclusions of law, and final determination based on the evidence presented.

(3) The board shall issue a final determination within thirty (30) days of receipt of the recommended order or within ninety (90) days of receipt of the complaint, whichever is shorter, unless the complainant agrees in writing to an extension of time.

Section 10. Alternative Dispute Resolution.

(1) If a final determination of a complaint is not made within ninety (90) days of the filing of the complaint, and the complainant did not agree to an extension, then the complaint shall be referred to a review panel comprised of three (3) members of the board.

(2) The review panel shall issue a final determination on the complaint within sixty (60) days of the referral.

(3) The review panel shall make its determination on the record of the hearing conducted under this administrative regulation and shall not conduct any further proceedings.

(4) If the hearing was not conducted or completed, then the review panel shall conduct a hearing under this administrative regulation.

Section 11. Publication of Final Determinations. All final determinations shall be posted on the internet homepage of the board, http://www.elect.ky.gov, and retained in the permanent archival records of the board by attaching to the minutes of the monthly meeting of the board for the month the final determination was issued.

Section 12. Incorporation by Reference.

(1) "Complaint and Affidavit for Violation of Title III of the Help America Vote Act of 2002," SBE 21, 10/2025[~~December 2003~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Offices of the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on the board's website at https://elect.ky.gov.

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CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 6:020. Provisional voting.

RELATES TO: KRS 117.015(1)(a), 117.275, 117.305, 52 U.S.C. 21082[~~42 U.S.C. 15482~~]

STATUTORY AUTHORITY: KRS 117.015(1)(a), 52 U.S.C. 21082[~~42 U.S.C. 15482, sec. 302(d)~~]

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the Kentucky State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties in the administration of the election laws. The Help America Vote Act of 2002, 52 U.S.C. 21082[~~42 U.S.C. 15482, Section 302(d)~~] requires the state to comply with the provisions of that section concerning provisional voting in elections for federal offices. This administrative regulation establishes procedures for provisional voting.

Section 1. Definitions.

(1) "Provisional ballot" means a ballot cast in an election for federal office by an individual who resides in a voting precinct but whose eligibility to vote is in question or is not determinable on election day.

(2) "Provisional ballot inner envelope" means the envelope with the words "provisional ballot" printed on the front.

(3) "Provisional ballot outer envelope" means the envelope with the following printed on the front:

(a) Precinct election officer checklist of circumstances for issuing a provisional ballot;

(b) Provisional ballot affirmation; and

(c) The county board of elections checklist for indicating whether the ballot was counted and if not counted the reason why.

Section 2. Applicability. This administrative regulation shall be applicable to special, primary, and general elections for the federal elective offices of President/Vice President, United States Senator, and United States House of Representatives.

Section 3. Precinct Election Officer Notice.

(1) A precinct election officer who cannot confirm a potential voter's eligibility to vote on election day shall notify the individual of the option of appearing before the county board of elections to dispute eligibility or voting a provisional ballot in that precinct if the individual resides at a residence within the geographical boundaries of the precinct.

(2) If the individual chooses to cast a provisional ballot, then the individual shall not be eligible to vote in any other manner.

Section 4. Procedures and Circumstances for Casting a Provisional Ballot.

(1) The individual shall sign a provisional ballot precinct signature roster, SBE 35, which contains the individual's name, address, signature, date of birth, political party affiliation, identification type, and precinct officer initials.

(2) The precinct election officer shall check the appropriate box next to the circumstance for issuing the provisional ballot.

(3) The circumstances for issuing the provisional ballot:

(a) Voter whose name does not appear on the precinct roster and whose registration status cannot be determined by the precinct officer;

(b) Voter whose name does not appear on the precinct roster and who has been verified as ineligible to vote;

(c) Voter who does not have identification;

(d) Voter who is voting as a result of a federal or state court order or any order under state law in effect ten (10) days prior to election day which extends polling hours; or

(e) Voter has been challenged by all four (4) precinct election officers.

(4) The precinct election officer shall give the individual the provisional ballot, a provisional ballot inner envelope, SBE 39, and the provisional ballot outer envelope, SBE 38.

(5) To cast a provisional ballot, an individual shall execute the written affirmation on the provisional ballot outer envelope before a precinct officer at the voting place declaring the individual is a registered voter in the county and resides within the geographical boundaries of the precinct. The written affirmation executed by the individual shall state:

(a) The individual's name;

(b) Current residential address;

(c) Political party affiliation;

(d) That the individual is a registered voter in the county and resides in the precinct;

(e) That the individual knows of no legal reason to prevent his or her vote from being cast and counted;

(f) That the individual has not voted and shall not vote in another precinct or by absentee ballot in this state during this election;

(g) That the individual understands that any person who falsely signs and verifies any form requiring verification shall be guilty of perjury and subject to penalties therefore; and

(h) That the individual further understands that if he or she executes the affirmation and is not a registered voter at the current address stated, the individual has committed a criminal act.

(6) The precinct election officer shall direct the individual to a private voting area in which the individual shall cast his or her provisional ballot.

(7)

(a) An individual may spoil up to two (2) provisional ballots and shall not be issued more than a total of three (3) provisional ballots.

(b) Spoiled ballots shall be placed in the provisional ballot inner envelope, sealed by the individual, and returned to a precinct election officer who shall mark on the provisional ballot stub of the issued ballot and on the front of the envelope "spoiled ballot".

(8) The individual shall place the voted provisional ballot in the provisional ballot inner envelope and seal. The individual shall place the sealed provisional ballot inner envelope in the provisional ballot outer envelope and seal.

(9) The individual shall return the sealed provisional ballot outer envelope to the precinct election officer.

(10) The precinct election officer, upon receiving the sealed provisional ballot outer envelope from the individual, shall give the individual the provisional ballot information sheet, SBE 36, which explains the individual's right to contact their local county clerk to learn if the provisional ballot was counted, and if not counted, the reason why.

(11) A precinct election officer shall place sealed provisional ballot outer envelopes and sealed spoiled provisional ballot inner envelopes in a container and transmit to the county board of elections.

(12) The county board of elections shall determine the eligibility to vote of each individual casting a provisional ballot, in accordance with KRS Chapters 116 to 118 and 31 KAR Chapters 2 to 6.

(13) If the county board of elections determines the individual is eligible to vote in the precinct in the election, the vote shall be counted, and the county board shall so indicate on the provisional ballot outer envelope.

(14) If the county board of elections determines the individual is ineligible to vote in the precinct in the election, the vote shall not be counted, and the county board shall so indicate on the provisional ballot outer envelope.

Section 5. Provisional Ballot During Extension of Time to Close Polls.

(1) An individual who votes in an election for federal office as a result of a federal or state court order or any other order extending the time established for closing the polls by a state law in effect ten (10) days before the date of that election may only vote in that election by casting a provisional ballot.

(2) A provisional ballot cast during an extension of the time for closing the polls required by orders described in this section shall be separated and held apart from other provisional ballots cast by those not affected by the order.

Section 6. Responsibilities.

(1) The county board of elections shall count all eligible provisional ballots.

(2) The county board of elections shall begin counting provisional ballots no later than 9 a.m. prevailing time on the day following the election.

(3) The provisional ballot count shall be certified by the county board of elections on the Certification Official Count and Record of Election Totals prescribed by the State Board of Elections in 31 KAR 4:031[0], which contains the office name, name of candidate, machine vote totals, absentee machine vote totals, paper absentee ballot vote totals, provisional ballot vote totals, and total votes. This form shall be certified to the Secretary of State's Office not later than 12 p.m., prevailing time, on the Friday following the election. For special elections, this form shall be certified to the Secretary of State's Office not later than 12 p.m., prevailing time, on the day following the election.

(4) Upon completion of a recanvass of vote totals, the county board of elections shall report recanvassed vote totals on the Recanvass of Official Count and Record of Election Totals form, prescribed by the State Board of Election in 31 KAR 4:071[31 KAR 4:070], which contains the office name, name of candidate, machine vote totals, absentee machine vote totals, paper absentee ballot vote totals, provisional ballot vote totals, and total votes. The recanvassed vote totals shall be certified and immediately reported to the Secretary of State's Office.

(5) County clerks shall cause provisional ballots to be printed. The provisional ballots shall be printed with a ballot stub that will be consecutively numbered with a place for voter name, precinct election officer initials, and marked by precinct officers if it was a spoiled ballot.

(6) County clerks shall post instructions in each precinct on how to cast a provisional ballot, in accordance with Section 4 of this administrative regulation.

(7)

(a) For general and special elections, a minimum of twenty (20) provisional ballots and other applicable forms shall be sent to each precinct.

(b) For primary elections, a minimum of twenty (20) provisional ballots and other applicable forms shall be sent for each party to each precinct.

(8) After the county board of elections has completed its investigation of each provisional ballot and marked the face of the provisional ballot outer envelope appropriate to its findings, the county clerk shall photocopy the face of each outer envelope for future access to convey to the individual whether or not the ballot was counted, and if not counted, the reason why, and shall immediately enter the information in the Statewide Voter Registration Database.

(9) Provisional ballots and all envelopes from a general election shall be locked for thirty (30) days and retained for twenty-two (22) months. Provisional ballot and all envelopes from a primary or special election shall be locked for ten (10) days and retained for twenty-two (22) months.

(10) A provisional ballot accountability statement for provisional ballots, SBE 37, shall be sent to each precinct and returned to the county board of elections, which contains the county name, precinct name, number of ballots issued, ballot stub numbers, number of provisional ballots used, number of provisional ballots unused, number of provisional ballots spoiled and place for the signature of all four (4) precinct election officers.

(11) The chairman of the county board of elections shall file a completed "County Board of Elections Provisional Ballots Issued to Voters and Counted" form, SBE 54C, with the State Board of Elections within ten (10) days after any special, primary, or general election for the federal elective offices of President/Vice President, United States Senator, and United States House of Representatives.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Provisional Ballot Precinct Signature Roster - SBE 35", 10/2025[~~(6/17)~~];

(b) "Provisional Ballot Informational Sheet - SBE 36", 10/2025[~~(9/04)~~];

(c) "Provisional Ballot Accountability Sheet - SBE 37", 10/2025[~~(12/05)~~];

(d) "Provisional Ballot Outer Envelope - SBE 38", (6/17);

(e) "Provisional Ballot Inner Envelope - SBE 39", (11/03); and

(f) "County Board of Elections Provisional Ballots Issued to Voters and Counted - SBE 54C" 10/2025[~~(2/04)~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on the board's website at https://elect.ky.gov.

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STATE BOARD OF ELECTIONS
(As Amended at ARRS, January 12, 2026)

31 KAR 6:040. Elections and Voting Equipment Security Plan.

RELATES TO: KRS 117.015, ***117.076,*** 117.085, 117.086, 117.187, 117.275, 117.383, 52 U.S.C. 21081[~~42 U.S.C. 15481~~]

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.383, 52 U.S.C. 21081[~~42 U.S.C. 1548~~]

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 117.383[~~(1)~~] requires the State Board of Elections to prescribe rules and administrative regulations to achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting. [~~42 U.S.C. 15481, Section 301 of~~]The Help America Vote Act of 2002, codified at 52 U.S.C. 21081, requires the states to maintain voting systems that preserve the privacy of the voter and the confidentiality of the ballot, produce a record of the election, and provides accessibility for individuals with disabilities. This administrative regulation establishes procedures for maintaining security in the election process ensuring the maximum degree of correctness, impartiality, and efficiency in elections and ensures that the voting systems used in the state are maintained in a condition to meet the requirements of 52 U.S.C. 21081[~~42 U.S.C. 15481~~].

Section 1. General Provisions.

(1) The county board of elections shall:

(a) Establish an election and voting equipment security plan covering all elections in the county and the security of all voting systems and equipment used in the county; and

(b) File the County Board of Elections Notice of Establishment of Elections and Voting Equipment Security Plan Form SBE 19[***~~, on~~ or before the first day of August of 2008 and***] on or before the first day of March of each year [***beginning in 2009***].

(2) The county boards of elections shall train all precinct election officers prior to each primary and general election on the procedures established by the county boards of elections to implement the Elections and Voting Equipment Security Plan during the training required by KRS 117.187.

Section 2. The Elections and Voting Equipment Security Plan shall include security measures in each of the following areas:

(1) The storage of election equipment hardware and software and related election materials, including maintaining the following:

(a) A list of all personnel with keys and access to the election equipment storage area;

(b) An access log including sign in and out times and dates of all personnel given access to the storage area;

(c) A list of all equipment by serial number and quantity; and

(d) An inventory record of each piece of voting equipment, including the following:

1. Serial number;

2. A history of repairs, replacements, and upgrades, if applicable, including who performed and who witnessed the maintenance performed;

3. Current location and condition;

4. Precinct assignments for Election Day; and

5. A detailed log of delivery to and from precincts on election day;

(2) The storage and tracking of paper ballots, providing an accounting for all ballots issued to a precinct on election day and a record of all security seal numbers used to seal ballot containers and tabulators;

(3) The processing and storage of voter registration and voting records in the clerk's office;

(4) Password administration, including designating a member of the county clerk's staff as the "password administrator" to issue passwords, maintain a master list of all passwords issued, and reissue all passwords on a periodic basis;

(5) Absentee voting conducted[~~for mail-in ballots and in-house voting,~~] pursuant to KRS 117.076 and 117.085[~~ and 117.086~~];

(6) A checklist for precinct election officers to follow for opening and closing the precincts on Election Day, including:

(a) Designating a secure location in each precinct for the voting equipment to be stored upon delivery and until the precinct election officers arrive at the precinct;

(b) A procedure for placement of the voting equipment in the precinct to limit access to the voting equipment's power control, counter controls, and results storage media to only authorized personnel;

(c) A procedure to verify the serial numbers, security seals, and protective counter number of each piece of voting equipment prior to the opening of the polls;

(d) A procedure to count and verify all paper ballots, provisional ballots, and election supplies prior to the opening of the polls;

(e) A procedure to validate the number of voter activation devices after the polls have closed and secure the devices for transport back to the county clerk's office; and

(f) A procedure for securing and accounting for all voting equipment after the closing of the polls; and

(7) Securing and storing the voting equipment after Election Day and in between elections and maintenance of election materials for the period required pursuant to KRS 117.275.

Section 3. Incorporation by Reference.

(1) "County Board of Elections Notice of Establishment of Elections and Voting Equipment Security Plan", SBE 19 10/2025[~~(2/08)~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on the board's website at https://elect.ky.gov.

FILED WITH LRC: January 12, 2026

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OFFICE OF ATTORNEY GENERAL
Kentucky Office of Regulatory Relief
(As Amended at ARRS, January 12, 2026)

40 KAR 12:100. Funeral planning declaration form.

RELATES TO: KRS 311.1917[~~311.1911 et seq.~~], 367.93101, 367.93103, 367.93105, 367.93107, 367.93109, 367.93111, 367.93113, 367.93115, 367.93117, 367.93121, 367.97501, 367.97514, 367.97524, 367.97527

STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.93101(3)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation amendment complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to recommend administrative regulations in the consumers' interest. KRS 367.93101(3) requires the [~~Office of the~~]Attorney General to promulgate administrative regulations to prescribe a funeral planning declaration form. KRS 367.93103***(2)(a)2.*** prohibits the inclusion of a funeral planning declaration in a power of attorney. This administrative regulation ***establishes***[~~***prescribes***~~] the funeral planning declaration form [~~identified in KRS 367.93101(3) and described in KRS 367.93101 to 367.93121, ~~]by which an individual[~~ declarant~~] may establish[~~set forth~~] funeral arrangements and his or her[~~the declarant's~~] preferences regarding the[~~manner of ~~]disposition of their human[~~the declarant's~~] remains and clarifies how an agent with power of attorney may sign a declaration on behalf of a Declarant.

Section 1. Funeral Planning Declaration. An individual desiring to plan for his or her funeral or the disposition of his or her human remains after death shall complete a[~~The~~] Funeral Planning Declaration[~~,~~] Form, FPD-1,***which shall state***[~~***setting forth***~~] his or her preferences.[~~required by KRS 367.93101(3), shall contain:~~]

[~~(1)~~] [~~The date the declaration is made;~~]

[~~(2)~~] [~~The name of the declarant;~~]

[~~(3)~~] [~~A statement providing that the declarant shall be at least eighteen (18) years of age and of sound mind;~~]

[~~(4)~~] [~~A statement providing that the declarant willingly and voluntarily makes known the declarant's instructions concerning funeral services, funeral and cemetery merchandise, ceremonies, and the disposition of the declarant's remains after the declarant's death;~~]

[~~(5)~~] [~~A statement that by executing the declaration any previous declaration is revoked;~~]

[~~(6)~~] [~~Statements informing the declarant of the following concerning a designee:~~]

[~~(a)~~] [~~A designee is an individual designated and directed by the terms of the declaration to carry out the declarant's funeral plan or make arrangements concerning disposition of the declarant's remains, funeral services, cemetery merchandise, funeral merchandise, or ceremonies;~~]

[~~(b)~~] [~~If the declarant does not designate a designee in the declaration, the declarant shall provide instructions concerning funeral services, ceremonies, and the disposition of the declarant's remains;~~]

[~~(c)~~] [~~A person is not considered to be entitled to any part of the declarant's estate solely by virtue of being designated in the declaration to serve as the declarant's designee;~~]

[~~(d)~~] [~~The declarant's designee shall not be a provider of funeral or cemetery services, or employed by any entity responsible for providing funeral or cemetery services or disposing of the declarant's remains, unless the designee is related to the declarant by birth, marriage, or adoption;~~]

[~~(e)~~] [~~A designee shall not be a witness to the declaration; and~~]

[~~(f)~~] [~~If the designee or alternate designee fail to assume an obligation set forth in the Funeral Planning Declaration, Form FPD-1, within five (5) days of notification of the declarant's death, the authority to make arrangements shall devolve pursuant to the terms of the Funeral Planning Declaration, Form FPD-1, or KRS 367.93117;~~]

[~~(7)~~] [~~If the declarant elects, a statement identifying the name of a designee who shall carry out the instructions that are set forth in the declaration;~~]

[~~(8)~~] [~~If the declarant elects to name an alternate designee, a statement identifying the name of an alternate designee if the designee is unwilling or unable to act;~~]

[~~(9)~~] [~~If the declarant elects to not select a designee, a statement that the declarant elects to not select a designee and that the declarant directs that the instructions listed in the declaration for funeral services, ceremonies, and the disposition of the declarant's remains be followed;~~]

[~~(10)~~] Instructions for actions to be taken after the declarant's death, indicating by initials or marks beside each instruction selected by the declarant, from the following:

[~~(a)~~] [~~Concerning disposition of the declarant's body, one (1) of the following:~~]

[~~1.~~] [~~The declarant directs that the declarant's body be buried and, if so, where;~~]

[~~2.~~] [~~The declarant directs that the declarant's cremated remains be disposed of by one (1) of the following methods, or, if no method of disposition is selected, the declarant leaves the decision to the designee:~~]

[~~a.~~] [~~By placing the cremated remains in a grave, crypt, or niche and, if so, where;~~]

[~~b.~~] [~~By scattering them in a scattering area; or~~]

[~~c.~~] [~~On private property with the consent of the owner;~~]

[~~3.~~] [~~The declarant directs that the declarant's body be entombed and, if so, where;~~]

[~~4.~~] [~~The declarant directs that the declarant's body be donated as an anatomical gift pursuant to KRS 311.1911, et. seq., if the declarant has not selected another method for donation of the declarant's body; or~~]

[~~5.~~] [~~The declarant intentionally makes no decision concerning the disposition of the declarant's body and leaves the decision to the designee;~~]

[~~(b)~~] [~~Concerning arrangements, any of the following selected by the declarant:~~]

[~~1.~~] [~~The declarant directs that funeral services be obtained and, if so, from whom, or, if no person from whom to obtain funeral services is selected, then the designee may decide;~~]

[~~2.~~] [~~The declarant directs that funeral and ceremonial arrangements are to be made and, if so, providing instructions regarding the funeral and ceremonial arrangements;~~]

[~~3.~~] [~~The declarant directs the selection of a grave memorial, monument, or marker, and, if so, providing instructions regarding the grave memorial, monument, or marker;~~]

[~~4.~~] [~~The declarant directs the selection of funeral and cemetery merchandise and other property for the disposition of the declarant's remains, funeral, or other ceremonial arrangements, and, if so, providing instructions regarding the funeral and cemetery merchandise and other property for the disposition of the declarant's remains, funeral, or other ceremonial arrangements; or~~]

[~~5.~~] [~~The declarant directs that the designee make all arrangements concerning ceremonies and other funeral or burial services;~~]

[~~(c)~~] [~~Any additional instructions requested by the declarant; and~~]

[~~(d)~~] [~~A statement that the declarant directs that the declarant's designee make alternate arrangements to the best of the designee's ability if it is impossible to make an arrangement~~][~~ specified in the Funeral Planning Declaration, Form FPD-1, because:~~]

[~~1.~~] [~~A funeral home or other service or merchandise provider is out of business, impossible to locate, or otherwise unable to provide the specified service; or~~]

[2.] [The specified arrangement is impossible, illegal, or exceeds the funds available or is inconsistent with the terms of the pre-arranged funeral or cemetery contract;]

[(11)] [A statement that it is the declarant's intention that the declarant's Funeral Planning Declaration, Form FPD-1, be honored by the declarant's family and others as the final expression of the declarant's intentions concerning the declarant's funeral and the disposition of the declarant's body after the declarant's death, and that the declarant understands the full import of this declaration;]

[(12)] [Concerning execution of the Funeral Planning Declaration, Form FPD-1:]

[(a)] [The signature of the declarant or another person in the declarant's presence and at the declarant's direction, the signature date, and the city, county, and state of the declarant's residence; and]

[(b)] [If applicable, the printed name of the person who signed at the declarant's direction;]

[(13)] [The signatures of two (2) witnesses, printed name, and date of signature of each witness, immediately following a statement that each witness believes:]

[(a)] [The declarant to be of sound mind and to have willfully and voluntarily executed the Funeral Planning Declaration, Form FPD-1;]

[(b)] [That the witness did not sign the declarant's signature or at the direction of the declarant;]

[(c)] [That the witness is not a designee of the declarant;]

[(d)] [That the declarant signed the declaration in the presence of the witness; and]

[(e)] [That the witness is competent and at least eighteen (18) years of age; and]

[(14)] [An acknowledgement before a notary public or other person authorized to administer oaths, including the signature and title of the notary public or other person authorized to administer oaths, and the date of the signature, immediately following a statement that the declarant appeared before the notary public or other person authorized to administer oaths and acknowledged that the declarant voluntarily dated and signed the Funeral Planning Declaration, Form FPD-1, or directed the Funeral Planning Declaration, Form FPD-1, to be signed and][dated in the declarant's presence, and the date of the acknowledgement.]

Section 2. Power ***of***[***or***] Attorney. An agent granted authority to act for a principal under a power of attorney ***shall not***[***cannot***] sign a Funeral Planning Declaration[,] Form**,** FPD-1, as a Declarant, ***unless***[***but must be***] directed by the Declarant to sign the Funeral Planning Declaration[,] Form**,** FPD-1, in the presence of the Declarant and the two (2) required witnesses.

Section 3. Incorporation by Reference.

(1) "Funeral Planning Declaration ***Form***", [***Form***]FPD-1, Oct. 2025[04-17], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Capital Complex East[Office of Consumer Protection], 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the Attorney General's website, https://ag.ky.gov/Pages/default.aspx.

FILED WITH LRC: January 12, 2026

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OFFICE OF ATTORNEY GENERAL
Kentucky Office of Regulatory Relief
(As Amended at ARRS, January 12, 2026)

40 KAR 12:110. Cemetery companies and preneed cemetery merchandise sellers[forms].

RELATES TO: KRS [367.937(2), 367.940(1), (3), (4),] 367.946[(1), (4)], 367.952, 367.954[(8)], 367.958,[(1), (13)] 367.972(2)

STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.972(2)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation amendment complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to recommend administrative regulations in the consumers' interest. KRS 367.972(2) authorizes the Attorney General to promulgate administrative regulations to implement KRS 367.932 to 367.974 and 367.991. KRS 367.937, 367.946, 367.952, 367.954, and 367.958 require the Attorney General to promulgate administrative regulations to establish application forms, reporting forms, and other forms relating to cemetery companies and preneed cemetery merchandise contract sellers. This administrative regulation ***establishes***[***prescribes***] the applications and forms used by cemetery companies and preneed cemetery merchandise contract sellers and exempted entities[establishes the requirements for a cemetery company and preneed cemetery merchandise seller annual report form, identified in KRS 367.946(4), a preneed burial contract license annual report form identified in KRS 367.940(4), a cemetery preconstruction project application form identified in KRS 367.958(1), a cemetery registration application form identified in KRS 367.946(1), a cemetery company and sellers of cemetery merchandise monthly report form identified in KRS 367.954(8) and 367.958(13), a preneed merchandise sellers application form as identified in KRS 367.940(1), a preneed burial contract sellers monthly report form as identified in KRS 367.940(3), and an irrevocable funeral trust agreement form as identified in KRS 367.937(2)].

Section 1. [Definitions.]

[(1)] ["Bank of underground crypts" is defined by KRS 367.932(15).]

[(2)] ["Columbarium" is defined by KRS 367.932(10).]

[(3)] ["Last twelve (12) months" means January 1 through December 31 of the preceding calendar year.]

[(4)] ["Mausoleum" is defined by KRS 367.932(9).]

[(5)] ["Principal stockholder" means one (1) who owns ten (10) percent or more of the corporate stock in the applicant corporation.]

[(6)] ["Underground crypt" is defined by KRS 367.932(14).]

[Section 2.] Cemetery Company and Preneed Cemetery Merchandise Sellers Application[Annual Report Form].

(1) ***A cemetery company or merchandise seller shall not make sales to Commonwealth of Kentucky residents unless the Attorney General approves***[***The Attorney General must approve***] a cemetery company and preneed cemetery merchandise seller registration application ***in accordance with this administrative regulation***[***before a cemetery company or merchandise seller may make sales to Commonwealth of Kentucky residents***]. A cemetery company and preneed cemetery merchandise seller shall submit an online registration application using the [**"**]Cemeteries: Application portal[**"**] available at https://www.ag.ky.gov/AG%20Business%20Forms/1Online%20For

ms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(2) If unable to submit an online application, an applicant shall complete and submit a Cemetery Company and Preneed Cemetery Merchandise Seller Registration Application, Form CPN-1, to the Attorney General's office, and submit:

(a) Payment of the $50.00 registration fee;

(b) The applicant's certificate of existence, authorization certificate from the Kentucky Secretary of State's office, or other evidence of the applicant's authority to transact business in Kentucky; and

(c) A completed Preneed Funeral and Burial Contract Seller License Application, PNBL-1 Form, as incorporated by reference in 40 KAR 12:120, ***if***[***when***] the applicant intends to sell preneed funeral and burial contracts.

(3) Applicants shall complete or submit additional information or documents for their application within thirty (30) days of any request by the Attorney General. The Attorney General may deny any application if an Applicant fails to timely complete the application by not paying the application fee or provide requested missing information or required documents.

Section 2. Cemetery Company and Preneed Cemetery Merchandise Seller Monthly Reports.

(1) A registered cemetery company and preneed cemetery merchandise seller shall submit a monthly report to the Attorney General each month by the 15th day of the month following the reported month. A registered cemetery company and preneed cemetery merchandise seller shall submit its monthly report online using the [**"**]Cemeteries: Monthly Report portal[**"**] available at https://www.ag.ky.gov/AG%20Business%20Forms/1Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(2) If unable to submit an online monthly report, a registered cemetery company and preneed cemetery merchandise seller shall complete and submit a Cemetery Company and Preneed Cemetery Merchandise Seller Monthly Report, Form CPN-2, to the Attorney General's office, and submit:

(a) Payment of the $5.00 administrative fee for each reported contract;

(b) Payment of a $5.00 consumer security fee for each contract ***if***[***when***] the amount received is $500 or less; or a $10.00 consumer security fee for each contract ***if***[***when***] the amount received is greater than $500; and

(c) A completed Preneed Funeral and Burial Contract Seller Licensee Monthly Report, Form PNBL-2, as incorporated by reference in 40 KAR 12:120, ***if***[***when***] the registrant also holds a pre-need burial contract seller (PNBL) license.

Section 3. Cemetery Company and Preneed Cemetery Merchandise Seller Yearly Reports.

(1) A registered cemetery company and preneed cemetery merchandise seller shall submit an annual report to the Attorney General for every calendar year by March ***31***[***31***][***st***] of the year following the reported year. A registered cemetery company and preneed cemetery merchandise seller shall submit its annual report online using the [**"**]Cemeteries: Annual Reports portal[**"**] available at https://www.ag.ky.gov/AG%20Business%20Forms/1Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(2) If unable to submit a yearly report online, a registered cemetery company and preneed cemetery merchandise seller shall complete and submit a Cemetery Company and Preneed Cemetery Merchandise Seller Annual Report, Form CPN-3, to the Attorney General's office, and submit:

(a) Payment of the $10.00 annual report fee;

(b) A completed Appendix A to the Cemetery Company and Preneed Cemetery Merchandise Seller Annual Report, Form CPN-3, or computer printouts containing required information therein;

(c) A year-end statement for the reporting calendar from all ***bank or financial***[***~~bank/financial~~***] institutions holding trust accounts identified in the Annual Report, Form CPN-1; and,

(d) A completed Preneed Funeral and Burial Contract Seller Annual Report, Form PNBL-3, as incorporated by reference in 40 KAR 12:120, ***if***[***when***] the registrant also holds a pre-need burial contract seller (PNBL) license.

Section 4. Local Governments Operating Cemeteries.

(1) A local government that owns or operates a cemetery exempt from the KRS 367.952 perpetual care and maintenance trust requirements that provides a notice of exemption to the Attorney General shall be exempt from the registration and reporting requirements of Sections 1 and 2 of this administrative regulation.

(2) Local government shall provide notice online to the Attorney General using the [**"**]Cemeteries: Local Government Exemption Notice portal[**"**] available at https://www.ag.ky.gov/AG%20Business%20Forms/1Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(3) If unable to submit an online notice, a local government shall complete and submit an [**"**]Local Government Cemetery Company Exemption Notice, Form CPN-5, to the Attorney General's office.

Section 5. Non-Government Exemption Application.

(1) To seek granted exemption status from the requirements of KRS 367.932 to 367.970, an applicant ***shall***[***may***] complete and submit an online application using the [**"**]Cemeteries: Non-Government Exemption Application portal[**"**] available at https://www.ag.ky.gov/AG%20Business%20Forms/1Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(2) If unable to submit an online application, an applicant may complete and submit a Non-Government Cemetery Company Exemption Application, Form CPN-6, to the Attorney General's office.

Section 6. Preconstruction Cemetery Project Sales Notice.

(1) A cemetery company shall notify the Attorney General about a preconstruction cemetery project at least thirty (30) days before commencing sales. The cemetery company shall complete and submit notice using the [**"**]Cemeteries: Preconstruction Notice Form portal[**"**] available at https://www.ag.ky.gov/AG%20Business%20Forms/1Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(2) If unable to submit an online application, a cemetery company shall complete and submit a Preconstruction Cemetery Project Sales Notice, Form CPN-4, to the Attorney General's office.

Section 7. Record Requests. A cemetery company and cemetery merchandise seller and a preneed funeral and burial contract seller shall make ***business records and documents and information related to an investigation or inquiry***[***requested records, documents and information***] readily available to the Attorney General for inspection and copying upon request.

Section 8. Material Changes in Application and Reports. Registered cemetery company and cemetery merchandise seller sellers shall notify the Attorney General in writing within fourteen (14) days of any material change relating to the information provided in their applications or reports. [~~The "Cemetery Company and Cemetery Merchandise Sellers Annual Report" Form CPN-1, required by KRS 367.946(4), shall contain the following information:~~]

[~~(1)~~] [~~The phrase "last twelve (12) months" means January 1 through December 31 of the preceding calendar year;~~]

[~~(2)~~] [~~The last day covered by this report;~~]

[~~(3)~~] [~~The cemetery name and registration number;~~]

[~~(4)~~] [~~The nature of cemetery ownership, selecting from one (1) of the following:~~]

[~~(a)~~] [~~Corporation;~~]

[~~(b)~~] [~~Proprietorship;~~]

[~~(c)~~] [~~Partnership;~~]

[~~(d)~~] [~~Nonprofit; or~~]

[~~(e)~~] [~~Municipal;~~]

[~~(5)~~] [~~The cemetery location and mailing address, including city, state and zip code;~~]

[~~(6)~~] [~~The cemetery phone number;~~]

[(7)] [The name and address, including city, state and zip code, of all trust companies holding][perpetual care and maintenance trust funds;]

[(8)] [The account number of all perpetual care and maintenance trust accounts;]

[(9)] [A copy of the annual perpetual care and maintenance trust report from the financial institution listing all transactions that have occurred during the preceding year;]

[(10)] [The beginning balance of all perpetual care and maintenance trust accounts;]

[(11)] [Perpetual care and maintenance trust fund account deposit information, including:]

[(a)] [The unpaid balance from the prior year;]

[(b)] [The number of graves sold during the year, the amount collected on the grave sales, and the amount deposited into the perpetual care and maintenance trust account from grave sales;]

[(c)] [The number of lawn or mausoleum crypts sold, the amount collected on the lawn or mausoleum crypt sales, and the amount deposited into the perpetual care and maintenance trust account from lawn or mausoleum crypt sales;]

[(d)] [The number of niches sold, the amount collected on the sale of niches, and the amount deposited into perpetual care and maintenance trust account from niche sales;]

[(e)] [The amount of unpaid trust deposits from the current year. This shall include last quarter's deposits if not made before the filing deadline; and]

[(f)] [The total perpetual care and maintenance account deposits made during the last twelve (12) months;]

[(12)] [Additional gifts to perpetual care, including funds not required by KRS 367.952(2);]

[(13)] [Perpetual Care and Maintenance Trust Fund Account earnings information, including:]

[(a)] [All interest and dividends earned during the current fiscal year;]

[(b)] [All capital gains and losses;]

[(c)] [All interest used during the current fiscal year;]

[(d)] [All taxes and fees; and]

[(e)] [Total earnings reinvested into the trust balance;]

[(14)] [The ending balance of the perpetual care and maintenance trust fund account;]

[(15)] [For registrants complying with KRS 367.954 by trusting forty (40) percent of all payments made for cemetery merchandise, the following information shall be required:]

[(a)] [The name and address, including city, state and zip code, of all trust companies holding cemetery merchandise trust funds;]

[(b)] [The account number of all cemetery merchandise trust accounts;]

[(c)] [A copy of the cemetery merchandise annual trust report from the financial institution summarizing all transactions that have occurred on the cemetery merchandise trust fund for the last twelve (12) months. This shall include a ledger sheet listing all persons who have purchased preneed cemetery merchandise within the last twelve (12) months;]

[(d)] [The beginning balance in the cemetery merchandise trust fund;]

[(e)] [All additions to the cemetery merchandise trust fund, including:]

[1.] [The amount deposited for sales from the last twelve (12) months;]

[2.] [The amount deposited for prior year sales;]

[3.] [The total interest earned;]

[4.] [All capital gains and losses; and]

[5.] [The total additions to the cemetery merchandise trust fund;]

[(f)] [The amount withdrawn during the last twelve (12) months for:]

[1.] [Merchandise provided;]

[2.] [Monies refunded; and]

[3.] [Total withdrawals; and]

[(g)] [The ending balance of the cemetery merchandise trust fund;]

[(16)] [For registrants complying with KRS 367.954 by placing preneed cemetery merchandise in storage, the following information shall be required:]

[(a)] [The name and address, including city, state and zip code, of all companies holding cemetery merchandise in storage;]

[(b)] [The total dollar amount of cemetery merchandise held in storage;]

[(c)] [The name and address, including city, state and zip code, of the company issuing the surety bond covering the cemetery merchandise held in storage; and]

[(d)] [The amount of the bond covering the cemetery merchandise held in storage;]

[(17)] [For registrants complying with KRS 367.954 by posting a good and sufficient bond with the Attorney General's Office, the following information shall be required:]

[(a)] [The name and address, including city, state and zip code, of the bond company issuing the bond;]

[(b)] [The amount of the bond; and]

[(c)] [The total dollar amount of preneed cemetery merchandise sold in the last twelve (12) months;]

[(18)] [The preneed burial license number;]

[(19)] [A ledger sheet which requires the following information:]

[(a)] [All preneed burial contracts sold by the firm for which services have not yet been performed or monies have not yet been refunded during the last twelve (12) months (that is, contracts that are still in existence on December 31); and]

[(b)] [All preneed burial contracts for which services were performed or monies were refunded during the last twelve (12) months (that is, accounts that had a positive balance on January 1 but show a zero balance as of December 31);]

[(20)] [A reconciliation section containing information on the following:]

[(a)] [The beginning balance of the trust;]

[(b)] [All deposits placed in the trust, including:]

[1.] [The additions to existing contracts;]

[2.] [The new contract deposits; and]

[3.] [The earnings on all contracts;]

[(c)] [The total deposits in the trust;]

[(d)] [All withdrawals from the trust, including:]

[1.] [The total refunds and conversions in the trust; and]

[2.] [The total number of trusts serviced;]

[(e)] [The total withdrawals from the trust;]

[(f)] [Any unrealized gains or losses from market changes; and]

[(g)] [The ending balance in the trust;]

[(21)] [A copy of the annual preneed burial trust report statements from the financial institution summarizing all transactions that have occurred on this fund for the last twelve (12) months;]

[(22)] [List all preconstruction sales project numbers;]

[(23)] [A status report of sales projects, containing the following information for each preconstruction sales project:]

[(a)] [The date the preconstruction sales project was registered with this office;]

[(b)] [The date the sales began;]

[(c)] [The date construction began; and]

[(d)] [The number of sales during the current year, including:]

[1.] [The number of mausoleum crypts sold;]

[2.] [The number of underground crypts sold; and]

[3.] [The number of niches sold;]

[(24)] [A ledger sheet listing all persons who have purchased preconstruction crypts or niches within the past twelve (12) months;]

[(25)] [The amount received for preconstruction sales during the last twelve (12) months, including:]

[(a)] [The amount received for mausoleum crypt sales and the amount deposited into trust;]

[(b)] [The amount received for underground crypt sales and the amount deposited into trust;]

[(c)] [The amount received for niche sales and the amount deposited into trust; and]

[(d)] [The total amount deposited into trust;]

[(26)] [The name and address, including city, state and zip code, of the trustee holding the preconstruction sales trust;]

[(27)] [The account number of the preconstruction sales trust;]

[(28)] [Preconstruction sales trust information including the following:]

[(a)] [Trust beginning balance;]

[(b)] [Trust deposits from sales for last twelve (12) months;]

[(c)] [Trust deposits from prior year sales;]
[(d)] [Trust earnings derived from:]
[1.] [Interest; and]
[2.] [Unrealized capital gains or losses;]
[(e)] [Trust withdrawals from:]
[1.] [Merchandise provided; and]
[2.] [Monies refunded; and]
[(f)] [Trust balance on December 31;]
[(29)] [A copy of the preconstruction sales annual trust report from the financial institution summarizing all transactions for the preceding year;]
[(30)] [A brief explanation of the stage of construction each project is in at the last day of the year;]
[(31)] [A certification that this is a true and correct report of activity for the last twelve (12) months and that the person completing the report is authorized to sign the report;]
[(32)] [A dated and notarized signature of the individual duly authorized to sign the form, including the signatory's printed name and title. If the cemetery is incorporated, the president or authorized individual shall sign;]
[(33)] [If the person signing did not prepare the report, the printed name, signature, and title of the person who prepared the report is required;]
[(34)] [A ledger sheet for preneed cemetery merchandise sales containing the following information:]
[(a)] [The cemetery name;]
[(b)] [The name of the financial institution in which the trust is located;]
[(c)] [The consumer's name in which the trust was created;]
[(d)] [The original contract date on which the contract was entered;]
[(e)] [The retail selling price of the cemetery merchandise;]
[(f)] [The amount deposited into the trust account;]
[(g)] [Any earnings which accrued during the last twelve (12) months;]
[(h)] [The amount of any trust that was refunded during the last twelve (12) months;]
[(i)] [Any merchandise that was provided during the last twelve (12) months; and]
[(j)] [The trust balance as of December 31; and]
[(35)] [A ledger sheet for preneed burial contracts containing the following information:]
[(a)] [The firm name;]
[(b)] [The signature of the preparer;]
[(c)] [The name of the financial institution in which the trust is located;]
[(d)] [The account number of the trust within the financial institution;]
[(e)] [The consumer's name in which the trust was created;]
[(f)] [The original contract date on which the contract was entered;]
[(g)] [Whether the contract is irrevocable;]
[(h)] [The trust balance as of January 1;]
[(i)] [The amount of any additions which occurred during the last twelve (12) months;]
[(j)] [Any earnings which accrued during the last twelve (12) months;]
[(k)] [Any withdrawals from the trust, including trusts that were refunded, serviced, or converted; and]
[(l)] [The trust balance as of December 31.]

[Section 3.] [By midnight of March 31 following the end of the last twelve (12) months, the "Cemetery Company and Cemetery Merchandise Sellers Annual Report", CPN-1, shall be filed with the Attorney General. A report postmarked by that time shall be considered timely filed.]

[Section 4.] [Preneed Burial Contract Annual Report. The "Preneed Burial Contract Annual Report", Form CPN-2, as required by KRS 367.940(4) shall contain the following information:]
[(1)] [The licensee's name, preneed burial license number, location, and mailing address including city, state, and zip code;]
[(2)] [A statement certifying that this is a true and correct report of activity for the preceding year;]
[(3)] [A reconciliation of the preneed burial contract trust account containing information on the following:]
[(a)] [The beginning balance of the trust;]
[(b)] [All deposits placed in the trust, including:]
[1.] [All additions to existing contracts;]
[2.] [All new contract deposits; and]
[3.] [Earnings on all contracts;]
[(c)] [The total deposits in the trust;]
[(d)] [All withdrawals from the trust, including:]
[1.] [Total refunds and conversions in the trust; and]
[2.] [Total number of contracts serviced;]
[(e)] [The total withdrawals from the trust;]
[(f)] [Any unrealized gains or losses from market changes; and]
[(g)] [The ending balance in the trust;]
[(4)] [A dated and notarized signature of the individual completing the form, acknowledging that the information is an accurate accounting to the best of the signatory's knowledge, and that the signatory is authorized to complete the report; and]
[(5)] [A ledger containing the following information on all contracts entered into between a consumer and the preneed burial licensee which, as of December 31, have not been serviced or, during the last twelve (12) months, were serviced, refunded, or converted:]
[(a)] [The name of the firm placing the funds in trust;]
[(b)] [The signature of the individual preparing the ledger;]
[(c)] [The year for which the ledger is being completed;]
[(d)] [The name of the financial institution in which the trust is located;]
[(e)] [The account number of the trust within the financial institution;]
[(f)] [The consumer's name in which the trust was created;]
[(g)] [The original contract date on which the contract was entered;]
[(h)] [Whether the contract is irrevocable;]
[(i)] [The trust balance as of January 1;]
[(j)] [Any additions which occurred during the last twelve (12) months;]
[(k)] [Any earnings which accrued during the last twelve (12) months;]
[(l)] [Any withdrawals from the trust, including trusts that were refunded, serviced or converted; and]
[(m)] [The trust balance as of December 31.]

[Section 5.]
[(1)] [By midnight of March 31 following the preceding twelve (12) months, the Preneed Burial Contract Annual Report, CPN-2, shall be filed with the Attorney General. A report postmarked by that time shall be considered timely filed; and]
[(2)] [If a licensee filed an annual report that included a portion of the calendar year preceding the][effective date of this administrative regulation, the licensee shall file a new annual report for that][portion of the year that was not previously reported.]

[Section 6.] [Cemetery Presale and Preconstruction Project Application. The "Cemetery Presale/Preconstruction Project Application", Form CPN-3, shall contain the following information:]
[(1)] [The parent company name;]
[(2)] [The cemetery name;]
[(3)] [The project name and any internal project identification number which shall be used on all sales contracts;]
[(4)] [The cemetery telephone number;]
[(5)] [The cemetery location and address, including street address, post office box, city, county,][state, and zip code;]
[(6)] [The cemetery mailing address, including city, state, and zip code, if different from location;]
[(7)] [The date sales began or will begin on the project for which the application is being submitted;]
[(8)] [The name and address, including street address, city, state, and zip code, of the financial institution where the preconstruction trust fund will be held and account numbers for those trusts;]
[(9)] [If no preconstruction trust fund is being used, applicant is required to attach a bond issued by a surety company licensed to do business in Kentucky in an amount sufficient to cover all payments

made by or on account of purchasers who have not received the purchased property and services and the bond numbers of the attached bond;]

[(10)] [An identification of the type of construction project for which the application is submitted, selecting from the following types:]

[(a)] [Mausoleum;]

[(b)] [Columbarium;]

[(c)] [Underground crypt; or]

[(d)] [Bank of underground crypts;]

[(11)] [The number and type of units to be sold;]

[(12)] [The gross selling price of the units;]

[(13)] [The date construction is scheduled to begin;]

[(14)] [The name of the contractor;]

[(15)] [A project cost estimate sheet and one (1) of the following:]

[(a)] [For mausoleum projects, a site plan showing exact dimensions of the construction site with scaled drawings of existing buildings or landmarks;]

[(b)] [For lawn crypt projects, a sales chart map which identifies each lot by number;]

[(16)] [The location of the project in the cemetery;]

[(17)] [The locations where temporary entombment or inurnment will be offered;]

[(18)] [Whether the applicant has any other preconstruction sales projects at the location and, if yes, the preconstruction sales project numbers and project names for each;]

[(19)] [If the applicant is eligible for self-construction pursuant to KRS 367.958(4), the following information:]

[(a)] [A certified statement regarding the projects the applicant has constructed in the past using primarily equipment owned by the entity and the applicant's own personnel with a minimum of subcontracting;]

[(b)] [The name of the construction company;]

[(c)] [The parts to be subcontracted;]

[(d)] [The cost of the subcontracted parts; and]

[(e)] [The name and address, including city, state and zip code, of subcontractors;]

[(20)] [A statement of compliance where the applicant signs and agrees to the following:]

[(a)] [To trust payments of money in compliance with Kentucky's cemetery and preneed funeral laws, KRS 367.932-367.974;]

[(b)] [That, under penalty of law, the information provided in the Cemetery Presale/Preconstruction Project Application, CPN-3, is true and accurate to the best of the applicant's knowledge;]

[(c)] [That the applicant will notify the Attorney General immediately of any change in the information provided in the Cemetery Presale/Preconstruction Project Application, CPN-3;]

[(d)] [That the applicant is not insolvent and has not conducted business in a fraudulent manner;]

[(e)] [That the applicant is duly authorized to do business in this state;]

[(f)] [That the registration, if granted, may be revoked in accordance with KRS Chapter 13B if the applicant violates any laws of Kentucky pertaining to trust funds or contracts or violates any administrative regulations of the Attorney General affecting those funds or contracts; and]

[(g)] [That the applicant is authorized to complete the Cemetery Presale/Preconstruction Project Application, CPN-3, on behalf of the cemetery company; and]

[(21)] [A dated and notarized signature of the applicant including the title or position held by the applicant].

[Section 7.] [Cemetery Registration Application. The "Cemetery Registration Application", Form CPN-4, shall contain the following information:]

[(1)] [The name of the cemetery;]

[(2)] [The mailing address of the cemetery, including the city, state, and zip code;]

[(3)] [The location of the cemetery, including the city, state, and zip code;]

[(4)] [The on-site telephone number of the cemetery;]

[(5)] [The total acreage that is developed;]

[(6)] [The total acreage that is undeveloped;]

[(7)] [The total acreage sold to date;]

[(8)] [An identification of any amenities used by the cemetery, including:]

[(a)] [Mausoleums;]

[(b)] [Crematory;]

[(c)] [Lawn crypts;]

[(d)] [Columbariums; and]

[(e)] [Scattering gardens;]

[(9)] [Whether any of the following additional services are offered:]

[(a)] [At-need;]

[(b)] [Preneed burial/funeral;]

[(c)] [Preneed cemetery merchandise; and]

[(d)] [Preconstruction;]

[(10)] [Information on all financial institutions holding the business bank accounts, including:]

[(a)] [The name and address, including city, state, and zip code; and]

[(b)] [The account numbers of the business bank accounts;]

[(11)] [Information on all financial institutions holding perpetual care and maintenance trust fund monies, including:]

[(a)] [The name and address, including city, state and zip code;]

[(b)] [The account number;]

[(c)] [The principal balance;]

[(d)] [The interest balance; and]

[(e)] [The total balance;]

[(12)] [Information on all financial institutions holding cemetery merchandise trust fund monies, including:]

[(a)] [The name and address, including city, state and zip code;]

[(b)] [The account number;]

[(c)] [The principal balance;]

[(d)] [The interest balance; and]

[(e)] [The total balance;]

[(13)] [Information on all financial institutions holding preneed burial contract trust fund monies, including:]

[(a)] [The name and address, including city, state and zip code;]

[(b)] [The account number; and]

[(c)] [The preneed burial license number;]

[(14)] [Information regarding mausoleum building on the cemetery premises, including:]

[(a)] [The number of crypts or niches;]

[(b)] [Whether all mausoleum crypts or niches sold have been constructed;]

[(c)] [If all mausoleum crypts and niches sold have not been constructed, the first date of the sale of the crypts and niches;]

[(d)] [If all mausoleum crypts and niches sold have not been constructed, the date construction began;]

[(e)] [If all mausoleum crypts and niches sold have not been constructed, the preconstruction sales permit number; and]

[(f)] [If all mausoleum crypts and niches sold have not been constructed, the number of crypts or niches remaining to be constructed;]

[(15)] [Information regarding underground or lawn crypts, including:]

[(a)] [Whether all underground or lawn crypts sold have been constructed;]

[(b)] [If all underground or lawn crypts sold have not been constructed, the number of crypts remaining to be constructed;]

[(c)] [If all underground or lawn crypts sold have not been constructed, the first date of the sale of crypts;]

[(d)] [If all underground or lawn crypts sold have not been constructed, the date construction began; and]

[(e)] [If all underground or lawn crypts sold have not been constructed, the preconstruction sales permit number;]

[(16)] [Whether the owning entity previously or currently operates one (1) or more cemeteries in any state other than Kentucky;]

[(17)] [If the owning entity has previously or currently operates one (1) or more cemeteries in any state other than Kentucky, the following information:]

[(a)] [The name of the cemetery;]

[(b)] [The address of the cemetery, including city, state and zip code; and]

[(c)] [The dates on which the cemetery was operated;]

[(18)] [If the applicant is an existing corporation, partnership, or sole proprietorship, the applicant shall attach a complete and detailed financial statement for the last three (3) years showing assets, liabilities, and reserves;]

[(19)] [If the applicant is a new corporation, partnership, or sole proprietorship, the applicant shall attach a complete and detailed financial statement including estimated receipts from all sources and estimated expenditures for the next two (2) years;]

[(20)] [If this is a stock sale, a Certificate of Good Standing from the Secretary of State shall be required;]

[(21)] [If the applicant is a corporation, the following information:]

[(a)] [The name of the parent corporation;]

[(b)] [The state of incorporation;]

[(c)] [The corporate headquarters mailing address, including city, state and zip code;]

[(d)] [The Kentucky business address, including city, state and zip code, if different than the cemetery address;]

[(e)] [The Kentucky business telephone number;]

[(f)] [The date of incorporation;]

[(g)] [The name of the resident process agent;]

[(h)] [The address of the resident process agent, including the city, state and zip code;]

[(i)] [The tax identification number; and]

[(j)] [The following information on each incorporator, principal stockholder owning ten (10) percent or more, director, officer and general manager:]

[1.] [Name;]

[2.] [Title or position;]

[3.] [Resident address, including city, state and zip code; and]

[4.] [Social Security number;]

[(22)] [If the applicant is a partnership, the following information;]

[(a)] [The name of each partner;]

[(b)] [The resident address, including city, state and zip code of each partner;]

[(c)] [The position held by each partner; and]

[(d)] [The Social Security number of each partner;]

[(23)] [If the applicant is a sole proprietorship, the following information:]

[(a)] [The name of the sole proprietor;]

[(b)] [The resident address, including city, state and zip code of the sole proprietor; and]

[(c)] [The Social Security number of the sole proprietor;]

[(24)] [If the applicant is a municipality, the following information:]

[(a)] [The name of the municipality;]

[(b)] [The address where the records are held, including city, state and zip code;]

[(c)] [The telephone number of the location where records are held;]

[(d)] [The name of the custodian of records; and]

[(e)] [The title of the custodian of records;]

[(25)] [A statement, signed by the applicant or applicants, which includes the following:]

[(a)] [The applicant agrees to deposit funds in compliance with Kentucky's cemetery and preneed laws, KRS 367.932-367.974;]

[(b)] [The applicant states, under penalty of law, that the information provided on the application is true to the best of the applicant's knowledge and that the applicant shall notify the Attorney General within sixty (60) days of any material change in the information provided on the application;]

[(c)] [The applicant is not insolvent, has not conducted business in a fraudulent manner, and that the applicant is duly authorized to do business in the Commonwealth of Kentucky;]

[(d)] [The applicant agrees that the registration, if granted, may be revoked in accordance with KRS Chapter 13B if the applicant violates any laws of Kentucky pertaining to trust funds or contracts or violate any administrative regulations of the Attorney General affecting those funds or contracts; and]

[(e)] [The signatory is authorized to complete this form on behalf of the applicant;]

[(26)] [The date on which the applicant completed the application;]

[(27)] [The signature of the applicant and the title or position held by the applicant; and]

[(28)] [For applicants applying for exemption consideration, the following information:]

[(a)] [The tax-exempt number;]

[(b)] [Whether the cemetery is owned by a religious group, private family burial ground, nonprofit organization, or sole proprietorship;]

[(c)] [The name of the cemetery;]

[(d)] [The location of the cemetery, including city, state and zip code;]

[(e)] [The total number of acres;]

[(f)] [The total number of acres plotted;]

[(g)] [The total number of graves;]

[(h)] [The total number of graves available;]

[(i)] [The total number of graves used;]

[(j)] [Whether spaces are provided to the general public;]

[(k)] [The current charge for one (1) grave space;]

[(l)] [The current charge for opening or closing the grave;]

[(m)] [An attached copy of any arrangements that have been made for perpetual care and][maintenance expenses, including any bylaws or trust agreements;]

[(n)] [A list of the names and addresses of those individuals who are responsible for the day-to-day operation of the cemetery, including those who make maintenance decisions, accept payments, plot spaces and keep records;]

[(o)] [Attach any articles of organization, bylaws, or other information concerning the responsibilities of these individuals, how they are elected or appointed, the terms that they serve, and the method of reporting the operation of the cemetery to the lot owners;]

[(p)] [An affidavit of exemption where the applicant certifies that the cemetery for which the application is made meets the qualifications for exemption provided in KRS 367.932(12), including:]

[1.] [The cemetery operates nonprofit;]

[2.] [The cemetery has no salaried employees, directors, officers, or managers other than maintenance caretakers;]

[3.] [The cemetery is owned and controlled by lot-owners; and]

[4.] [The cemetery does not sell any preneed merchandise or services;]

[(q)] [A statement that the applicant is authorized to sign the affidavit on behalf of the named cemetery and that if any of the statements should change, the applicant shall notify the Office of the Attorney General within thirty (30) days;]

[(r)] [The printed name of the applicant;]

[(s)] [The street address, city, state and zip code of the applicant; and]

[(t)] [A notarized signature of the applicant.]

[Section 8.] [The following documents shall accompany each cemetery registration application:]

[(1)] [A certified copy of the Articles of Incorporation, Articles of Partnership, or the partnership agreement;]

[(2)] [A copy of the bylaws;]

[(3)] [If a new cemetery, a certificate from the agency having jurisdiction over zoning matters stating that the property on which the cemetery is located is properly zoned for that purpose and the applicant has complied with all applicable zoning ordinances;]

[(4)] [A statement of the applicant's proposed plan of operation;]

[(5)] [If a foreign corporation, evidence of qualification to do business in Kentucky;]

[(6)] [A certified copy of the perpetual care trust agreement, cemetery merchandise trust agreement, preneed burial trust agreement, and preconstruction trust agreement; and]

[(7)] [If a new cemetery, proof of deposit of initial contribution to the perpetual care trust fund as required by KRS 367.952.]

[Section 9.] [Cemetery Company and Cemetery Merchandise Sellers Monthly Report. The "Cemetery Company and Sellers of Cemetery Merchandise Monthly Report", Form CPN-5, shall contain the following information:]

[(1)] [The name of the cemetery company or cemetery merchandise seller and the city in which it is located;]

[(2)] [The telephone number of the cemetery company or cemetery merchandise seller;]

[(3)] [The name of the financial institution holding the cemetery company or cemetery merchandise seller's funds;]

[(4)] [The registration number of the cemetery company or cemetery merchandise seller's account held by the financial institution;]

[(5)] [The preneed burial license number;]

[(6)] [The month for which the report is submitted;]

[(7)] [The signature of the individual completing the report; and]

[(8)] [The following information for all contracts entered between a consumer and the cemetery company or cemetery merchandise seller for the month for which the report is submitted:]

[(a)] [The date on which a contract was entered;]

[(b)] [The amount received on the contract;]

[(c)] [The consumer's name and address, including address, city, state and zip code;]

[(d)] [The number of items sold over and under $500 per consumer and in total for the month;]

[(e)] [The number of preneed funeral items sold per consumer and in total for the month;]

[(f)] [The number of preconstruction items sold per consumer and in total for the month;]

[(g)] [The number of preneed cemetery merchandise items sold per consumer and in total for the month;]

[(h)] [The administrative fees due per person per contract and in total for the month;]

[(i)] [The consumer security fees due per consumer and in total for the month; and]

[(j)] [The total fees submitted per consumer for the month and in total for the month.]

[Section 10.] [Preneed Merchandise Sellers Application. The "Preneed Merchandise Sellers Application", Form CPN-6, shall contain the following information:]

[(1)] [The applicant's name, including the funeral home, cemetery or business name;]

[(2)] [The following corporate information:]

[(a)] [The date of application;]

[(b)] [The state of incorporation;]

[(c)] [The corporate headquarters mailing address, including city, state and zip code;]

[(d)] [The Kentucky business address, including city, state and zip code;]

[(e)] [The Kentucky business telephone number;]

[(f)] [The date of incorporation;]

[(g)] [The name of the resident process agent;]

[(h)] [The address of the resident process agent, including city, state and zip code; and]

[(i)] [The applicant's tax identification number;]

[(3)] [For each of the applicant's incorporators, principal stockholders (one who owns a ten (10) percent or greater interest), directors, officers, and general managers, the following information shall be provided:]

[(a)] [Name;]

[(b)] [Title or position;]

[(c)] [Resident address, including city, state and zip code; and]

[(d)] [Social Security number;]

[(4)] [For applicants organized as a partnership, the following information shall be provided:]

[(a)] [The name of each partner;]

[(b)] [The position held by each partner; and]

[(c)] [The Social Security number of each partner;]

[(5)] [For applicants organized as a sole proprietorship, the following information shall be provided:]

[(a)] [The name of the sole proprietor; and]

[(b)] [The Social Security number of the sole proprietor;]

[(6)] [If this is a stock sale, a Certificate of Good Standing from the Secretary of State shall be attached to the Preneed Sellers Application;]

[(7)] [Applicants which are an existing corporation, partnership, or sole proprietorship shall include a complete and detailed financial statement for the past three (3) years showing assets, liabilities, and reserves;]

[(8)] [For an applicant that is a new corporation, the following information shall be provided:]

[(a)] [The amount of stock subscribed;]

[(b)] [The consideration for all stock issued;]

[(c)] [The amount of promotional stock involved; and]

[(d)] [To whom the promotional stock is issued;]

[(9)] [Applicants which are a new corporation, partnership or sole proprietorship shall include a complete and detailed financial statement including estimated receipts from all sources (including capitalization, sales, and loans) and estimated expenditures for the next two (2) years;]

[(10)] [For applicants or owning entities that sell preneed burial contracts at any other location or business in Kentucky, the following information shall be provided:]

[(a)] [The name of the business;]

[(b)] [The address of the business, including city, state and zip code; and]

[(c)] [The dates of business operation;]

[(11)] [For applicants or owning entities selling preneed burial contracts in other states within the United States, the following information shall be provided:]

[(a)] [The name of the business;]

[(b)] [The address of the business, including city, state and zip code; and]

[(c)] [The dates of business operation;]

[(12)] [The name of the funeral home, cemetery, or business selling preneed burial contracts;]

[(13)] [The mailing address, including city, state and zip code, of the funeral home, cemetery, or business selling preneed burial contracts;]

[(14)] [The location of the funeral home, cemetery or business selling preneed burial contracts;]

[(15)] [A letter attached to the Preneed Merchandise Sellers Application, Form CPN-6, from a financial institution that has agreed to hold the trust fund accounts for the applicant;]

[(16)] [The name, address (including city, state, and zip code) and account number of the financial institution holding the business bank account;]

[(17)] [Whether the applicant is going to solicit the sale of preneed burial contracts by a home solicitation program;]

[(18)] [Whether the applicant is familiar with Kentucky's Home Solicitation Sales Law, KRS 367.410-367.460;]

[(19)] [A statement, dated and signed by the applicant, where the applicant agrees to the following:]

[(a)] [Applicant shall deposit payments of money in compliance with Kentucky's cemetery and preneed funeral laws, KRS 367.932-367.974;]

[(b)] [Applicant states under penalty of law that all information given on the Preneed Merchandise Sellers Application is true and accurate to the best of the applicant's knowledge;]

[(c)] [Applicant shall notify the Attorney General immediately if any information given in the Preneed Merchandise Sellers Application changes;]

[(d)] [Applicant is not insolvent and has not conducted business in a fraudulent manner and is duly authorized to do business in this state;]

[(e)] [Applicant agrees that the preneed sales license, if granted, may be denied, suspended, or revoked in accordance with KRS 367.973;]

[(f)] [Applicant is authorized to complete the Preneed Merchandise Sellers Application, CPN-6, on behalf of the business; and]

[(20)] [The signature of all applicants, incorporators, principal stockholders owning ten (10) percent of total shares, directors, officers, and general managers associated with the corporation named herein or, if a sole proprietorship or partnership, by all owners or general partners, and the title of position held].

[Section 11.] [The following documents must accompany each cemetery registration application:]

[(1)] [A certified copy of the Articles of Incorporation, Articles of Partnership, or the partnership agreement;]

[(2)] [A copy of the bylaws;]

[(3)] [A statement of the applicant's proposed plan of operation;]

[(4)] [If a foreign corporation, evidence of qualification to do business in Kentucky; and]

[(5)] [A letter from the financial institution which has agreed to hold the trust fund account.]

[Section 12.] [Preneed Sellers Monthly Report. The "Preneed Burial Sellers Monthly Report",][Form CPN-7, shall contain the following information:]

[(1)] [The name of the preneed burial seller and city in which it is located;]

[(2)] [The month for which the report is submitted; and]

[(3)] [The following information for all contracts entered between a consumer and the preneed burial contract seller for the month for which the report is submitted:]

[(a)] [The date on which the contract was entered into between a consumer and the preneed burial contract seller;]

[(b)] [The name of the financial institution holding the consumer's funds;]

[(c)] [The address of the financial institution hold the consumer's funds, including city, state, and zip code;]

[(d)] [The amount received on the contract;]

[(e)] [The consumer's name and address;]

[(f)] [Whether the contract was irrevocable;]

[(g)] [The fee that was assessed for the individual contract; and]

[(h)] [The total fees collected for the month.]

[Section 13.] [Irrevocable Funeral Trust Agreement. The "Irrevocable Funeral Trust Agreement", Form CPN-8, shall contain the following information:]

[(1)] [The name and Social Security number of the beneficiary that has received, applied for, or intends to apply to be an aged, blind, or disabled recipient of benefits pursuant to the Federal Supplementary Security Income Program under Title XVI of the Social Security Act or other federal or state entitlement programs;]

[(2)] [An acknowledgement by the beneficiary that the money paid to the specified funeral home, intended to pay for funeral arrangements of the beneficiary pursuant to a prearranged funeral agreement, contract or plan and deposited by the funeral home, as agent, in a Kentucky bank, savings and loan, or credit union, as trustee, constitutes an irrevocable trust fund during the lifetime of the beneficiary and forms a part of the prearranged funeral agreement;]

[(3)] [An acknowledgement by the beneficiary or grantor that if, for any reason, the beneficiary or grantor fails to apply for entitlement benefits within thirty (30) days from this signing of this irrevocable funeral trust agreement, fails to receive, or otherwise becomes ineligible for entitlement benefits, the irrevocable funeral trust agreement shall become a revocable funeral trust agreement;]

[(4)] [An acknowledgement by the beneficiary or grantor that the irrevocable funeral trust agreement shall not affect the selection of funeral goods or services or the selection of the funeral home and that, at any time, the beneficiary or grantor of the irrevocable trust may, by written request to the funeral home (as agent) and bank (as trustee), change the agent, trustee, or both;]

[(5)] [The beneficiary or grantor acknowledges that by signing the irrevocable funeral trust agreement, the beneficiary or grantor gives authorization to the funeral home and the Attorney General, Commonwealth of Kentucky, to access the appropriate records to ensure compliance with KRS Chapter 367;]

[(6)] [The signature of the beneficiary or grantor;]

[(7)] [The name and address of the funeral home, including the city, state and zip code;]

[(8)] [The signature of an authorized representative of the funeral home; and]

[(9)] [The date on which the irrevocable funeral trust agreement is signed.]

Section 9.[Section 14.] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Cemetery Company and Preneed Cemetery Merchandise Seller Registration Application", Form CPN-1, Oct. 2025;

(b) "Cemetery Company and Preneed Cemetery Merchandise Seller Monthly Report", Form CPN-2, Oct. 2025;

(c) "Cemetery Company and Preneed Cemetery Merchandise Seller Annual Report with Appendix A", Form CPN-3, Oct. 2025;

(d) "Preconstruction Cemetery Project Sales Notice", Form CPN-4, Oct. 2025;

(e) "Local Government Cemetery Company Exemption Notice, Form CPN-5, Oct. 2025;

(f) "Non-Government Cemetery Company Exemption Application," Form CPN-6, Oct. 2025;

(g) "Cemeteries: Application portal", Oct. 2025;

(h) "Cemeteries: Monthly Report portal", Oct. 2025;

(i) "Cemeteries: Annual Report portal", Oct. 2025;

(j) "Cemeteries: Preconstruction Notice Form portal", Oct. 2025;

(k) "Cemeteries: Local Government Exemption Notice portal", Oct. 2025; and

(l) "Cemeteries: Non-Government Exemption Application portal", Oct. 2025;

[(a)] ["Sellers of Cemetery Merchandise and Cemetery Companies Annual Report", Form CPN-1, 11-02;]

[(b)] ["Preneed Burial Contract Annual Report", Form CPN-2, 11-02;]

[(c)] ["Cemetery Presale and Preconstruction Project Application", Form CPN-3, 11-02;]

[(d)] ["Cemetery Registration Application", Form CPN-4, 11-02;]

[(e)] ["Cemetery Company and Sellers of Cemetery Merchandise Monthly Report", Form CPN-5, 11-02;]

[(f)] ["Preneed Merchandise Sellers Application", CPN-6, 11-02;]

[(g)] ["Preneed Sellers Monthly Report", Form CPN-7, 11-02; and]

[(h)] ["Irrevocable Funeral Trust Agreement", Form CPN-8, 11-02.]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Capital Complex East, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the Attorney General's website, https://ag.ky.gov/Pages/default.aspx.

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OFFICE OF ATTORNEY GENERAL
Kentucky Office of Regulatory Relief
(As Amended at ARRS, January 12, 2026)

40 KAR 12:120. Preneed funeral and burial contract sellers.

RELATES TO: KRS 367.937, 367.940

STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.972(2)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation amendment complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to recommend administrative regulations in the consumers' interest. KRS 367.972(2) authorizes the Attorney General to promulgate administrative regulations to implement KRS 367.932 to 367.974 and 367.991. KRS 367.937 and 367.940 require the Attorney General to promulgate administrative regulations to establish application forms, reporting forms, and trust forms relating to preneed funeral and burial contract sellers. This administrative regulation ***establishes***[***prescribes***] the license application form and other forms, to be used by preneed funeral and burial contract

sellers, ***and*** provides for online application and submission processes[***, and provides for license suspension and revocation***].

Section 1. Preneed Funeral and Burial Contract Seller License Application.

(1) ***A preneed funeral and burial contract seller shall not make sales to Commonwealth of Kentucky residents unless the Attorney General approves***[***The Attorney General must approve***] a preneed funeral and burial contract seller license application ***in accordance with this administrative regulation***[***before a seller may make sales to Commonwealth of Kentucky residents***]. A preneed funeral and burial contract seller shall submit an online license application using the [***"***]Preneed Funeral and Burial Contract Seller License Application portal[***"***] available at https://www.ag.ky.gov/AG%20Business%20Forms/1Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(2) If unable to submit an online application, an applicant shall complete and submit a Preneed Funeral and Burial Contract Seller License Application, Form PNBL-1, to the Attorney General's office, and submit:

(a) Payment of the $50.00 registration fee;

(b) The applicant's certificate of existence, authorization certificate from the Kentucky Secretary of State's office, or other evidence of the applicant's authority to transact business in Kentucky; and

(c) A completed Cemetery Company and Preneed Cemetery Merchandise Seller Registration Application, Form CPN-1, as incorporated by reference in 40 KAR 12:110, ***if***[***when***] the applicant intends to operate a cemetery company business or sell preneed cemetery merchandise.

(3) Applicants shall complete or submit additional information or documents for their application within thirty (30) days of any request by the Attorney General. The Attorney General may deny any application if an applicant fails to timely complete the application by not paying the application fee or provide requested missing information or required documents.

Section 2. Preneed Funeral and Burial Contract Seller Monthly Reports.

(1) A licensed preneed funeral and burial contract seller shall submit a monthly report to the Attorney General each month by the 15th day of the month following the reported month. A licensed preneed funeral and burial contract seller shall submit its monthly report online using the [***"***]Preneed Funeral and Burial Contract Seller Monthly Report portal[***" available at***] available at https://www.ag.ky.gov/AG%20Business%20Forms/Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(2) If unable to submit an online monthly report, a licensed preneed funeral and burial contract seller shall complete and submit Preneed Funeral and Burial Contract Seller Monthly Report, Form PNBL-2, to the Attorney General's office, and submit:

(a) Payment of the $5.00 administrative fee for each reported contract; and

(b) A completed Cemetery Company and Preneed Cemetery Merchandise Seller Monthly Report, Form CPN-2, as incorporated by reference in 40 KAR 12:110, ***if***[***when***] the licensee is also registered as a cemetery company and preneed cemetery merchandise seller.

Section 3. Preneed Funeral and Burial Contract Seller Yearly Reports.

(1) A licensed preneed funeral and burial contract seller shall submit an annual report to the Attorney General for every calendar year by March 31st of the year following the reported year. A licensed preneed funeral and burial contract seller shall submit its yearly report online using the [***"***]Preneed Funeral and Burial Contract Seller Annual Report portal[***" available at***] available at https://www.ag.ky.gov/AG%20Business%20Forms/Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(2) If unable to submit a yearly report online, a licensed preneed funeral and burial contract seller shall complete and submit a Preneed Funeral and Burial Contract Seller Annual Report, Form PNBL-3, to the Attorney General's office, and submit:

(a) Payment of the $10.00 annual report fee;

(b) A completed Appendix A to the Preneed Funeral and Burial Contract Seller Licensee Annual Report, Form PNBL-3, or computer spreadsheets containing required information therein; ***and***

(c) A completed Cemetery Company and Preneed Cemetery Merchandise Seller Annual Report, Form CPN-3, as incorporated by reference in 40 KAR 12:110, ***if***[***when***] the licensee is also registered as a cemetery company and preneed cemetery merchandise seller.

Section 4. Irrevocable Funeral Trust Agreements. A licensed preneed funeral and burial contract seller shall complete and retain an Irrevocable Funeral Trust Agreement, Form PBNL-4, ***if***[***when***] establishing an irrevocable trust under KRS 367.937.

Section 5. Record Requests. A licensed preneed funeral and burial contract seller shall make ***business records and documents and information related to an investigation or inquiry***[***requested records, documents and information***] readily available to the Attorney General for inspection and copying upon request.

Section 6. Material Changes in Application and Reports. A licensed preneed funeral and burial contract seller shall notify the Attorney General in writing within fourteen (14) days of any material change relating to the information provided in their applications or reports.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Preneed Funeral and Burial Contract Seller License Application", Form PNBL-1, Sept. 2025;

(b) "Preneed Funeral and Burial Contract Seller Monthly Report", Form PNBL-2, Sept. 2025;

(c) "Preneed Funeral and Burial Contract Seller Annual Report with Appendix A", Form PNBL-3, Sept. 2025;

(d) "Irrevocable Funeral Trust Agreement", Form PNBL-4, Sept. 2025;

(e) "Preneed Funeral and Burial Contract Seller License Application portal", Sept. 2025;

(f) "Preneed Funeral and Burial Contract Seller Monthly Report portal", Sept. 2025; and

(g) "Preneed Funeral and Burial Contract Seller Annual Report portal", Sept. 2025;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Capital Complex East, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the Attorney General's website, https://ag.ky.gov/Pages/default.aspx.

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OFFICE OF ATTORNEY GENERAL
Kentucky Office of Regulatory Relief
(As Amended at ARRS, January 12, 2026)

40 KAR 12:130. Crematory authorities[Cremation forms] and inspections.

RELATES TO: KRS 213.081, 213.098, 367.93103, 367.93105, 367.93115, 367.93117, 367.97501, 367.97504, 367.97507, 367.97511, 367.97514, 367.97517, 367.97521, 367.97524, 367.97527, 391.010

STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.97501, 367.97504, 367.97534

CERTIFICATION STATEMENT: This is to certify that this administrative regulation amendment complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to recommend administrative regulations in the consumers' interest. KRS 367.97501 and 367.97504 require the Attorney General to promulgate an administrative regulation to establish an application for a crematory authority license and report forms. KRS 367.97524 requires crematory authorities to obtain signed cremation authorization forms before conducting any cremations. KRS 367.97534(5) authorizes the Attorney General to promulgate administrative regulations necessary to carry out the provisions of KRS 367.97501 to 367.97537, pertaining to crematory authorities. This administrative regulation ***establishes***[~~***prescribes***~~] the license application form, and other forms, to be used by crematory authorities, and provides for online application and submission processes. This administrative regulation establishes the records and information that shall be retained by crematory authorities and permits crematory inspections by the Attorney General.

Section 1. Crematory Authority License Application Form.

(1) ***An applicant shall not cremate human remains in the Commonwealth of Kentucky unless the Attorney General approves the***[~~***The Attorney General must approve an***~~] applicant's crematory authority license application ***in accordance with this administrative regulation***[~~***before the applicant may cremate human remains in the Commonwealth of Kentucky***~~]. An applicant shall submit an online license application using the ["]Crematory Authority license application portal["] available at https://www.ag.ky.gov/AG%20Business%20Forms/1Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(2) If unable to complete an online application, an applicant shall complete and submit a Crematory Authority License Application, Form CR-5, to the Attorney General's office and submit:

[~~(1)~~] [~~An applicant for a crematory authority license shall complete and submit a Crematory Authority License Application, Form CR-5, to the Office of Attorney General before commencing business.~~]

[~~(2)~~] [~~An applicant for a crematory authority license shall submit with each Crematory Authority License Application, Form CR-5~~]:

(a) Payment of the $100 registration fee;

(b) The applicant's certificate of existence, authorization certificate from the Kentucky Secretary of State's office, or other evidence of the applicant's authority to transact business in Kentucky; and

(c) A completed Preneed Funeral and Burial Contract Seller License[~~Merchandise Sellers~~] Application, Form PNBL-1[~~CPN-6 Form~~], as incorporated by reference in 40 KAR 12:120, ***if***[~~***when***~~][~~if~~] the applicant intends to sell preneed burial contracts.

(3) Applicants shall complete or submit additional information or documents for their application within thirty (30) days of any request by the Attorney General. The Attorney General may deny any application if an applicant fails to timely complete the application by not paying the application fee or provide requested missing information or required documents.

Section 2. Cremation Authorization Form.

(1) A licensed crematory authority shall complete and keep a Cremation Authorization, Form CR-1, for every cremation of human remains it has performed.

(2) A licensed crematory authority shall attach to the Cremation Authorization, Form CR-1, for authorizing agents for cremation, if applicable:

(a) An original Funeral Planning Declaration, Form FPD-1, as incorporated by reference in 40 KAR 12:100;

(b) An original discontinued Preneed Cremation Authorization, Form CR-3, executed prior to July 15, 2016; and

(c) An original U.S. Department of Defense form, Record of Emergency Data, DD Form 93, or a successor form adopted by the United States Department of Defense.

Section 3. Crematory Annual Report Form.

(1) On or before March 31 of each year, a[~~A~~] licensed crematory authority shall complete and submit an annual report[~~a Crematory Authority Annual Report, Form CR-2,~~]to the Attorney General for each prior calendar year beginning January 1 and ending December 31.

(2) A licensed crematory authority shall submit its annual report using the ["]Crematory Authority Annual Report portal["] available at https://www.ag.ky.gov/AG%20Business%20Forms/1Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(3) If unable to submit an online report, a licensed crematory authority may complete and submit a[~~The completed~~] Crematory Authority Annual Report, Form CR-2, [~~shall be filed with~~]to the Attorney General's office[~~Office by March 31 of the year following the calendar year reported.~~]

[~~(3)~~] [~~A licensed crematory authority shall submit with the Crematory Authority Annual Report, Form CR-2,~~]and submit the[~~a~~] ten (10) dollar annual registration fee.

Section 4. Statement of Supervision Form.

(1) A licensed crematory authority shall[~~complete and~~] submit a Statement of Supervision to the Attorney General[~~for Registered Crematory Retort Operators, Form CR-4,~~] for each trained retort operator before permitting the trained operator to operate a retort. A licensed crematory operator shall submit an online statement using the ["]Statement of Supervision for Registered Crematory Retort Operators portal["] available at https://www.ag.ky.gov/AG%20Business%20Forms/1Online%20Forms%20for%20Cemeteries,%20Funeral%20Homes,%20and%20Crematories.pdf.

(2) If unable to submit an online statement, a licensed crematory authority shall complete and submit a Statement of Supervision for Registered Crematory Retort Operators, Form CR-4, to the Attorney General's office.

Section 5. Required Records of the Crematory Authority. To comply with KRS 367.97504(5), a crematory authority shall keep and maintain the following records for all cremations occurring within the prior ten (10) years:

(1) The original or a copy of the completed Cremation Authorization, Form CR-1;

(2) Any discontinued Preneed Cremation Authorization, Form CR-3 completed and executed prior to July 15, 2016; and

(3) Any Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 12:100.

Section 6. Inspection of Crematory Authorities. The Attorney General may conduct announced and unannounced inspections of the applicant's and a licensed crematory authority's premises during normal business hours to review records and ensure compliance with KRS 367.97501 to 367.97537 and related administrative regulations. An applicant and a licensed crematory authority shall ***allow***[~~***permit***~~] these inspections and make ***business records and documents and information related to an investigation or inquiry***[~~***all requested records***~~] readily available to the Attorney General upon request.

Section 7. Material Changes in Application and Reports. Material Changes in Application and Reports. A licensed crematory authority shall notify the Attorney General in writing within fourteen (14) days of any material change in the information provided in its applications or reports.

Section 8. Human Remains of Deceased Pregnant Mother. A licensed crematory may cremate the remains of a deceased pregnant woman together with the fetal remains of her unborn child or children within the same cremation chamber. Completion of a Cremation Authorization, Form CR-1 authorizing cremation of the

deceased pregnant woman shall also authorize cremation of her unborn child or children.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Cremation Authorization", Form CR-1, Oct. 2025[~~Oct. 2022~~];

(b) "Crematory Authority Annual Report", Form CR-2, Oct. 2025[~~Oct. 2022~~];

(c) "Statement of Supervision for Registered Crematory Retort Operators", Form CR-4, Oct. 2025[~~Oct. 2022~~]; [~~and~~]

(d) "Crematory Authority License Application", Form CR-5, Oct. 2025;[~~Oct. 2022.~~]

(e) "Crematory Authority license application portal", Oct. 2025;

(f) "Crematory Authority Annual Report portal", Oct. 2025; and

(g) "Statement of Supervision for Registered Crematory Retort Operators portal", Oct. 2025.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Capital Complex East[~~Office of Consumer Protection,~~] 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the Office's Web site, https://ag.ky.gov/Pages/default.aspx.

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CONTACT PERSON: Stephen B. Humphress, Executive Director, Kentucky Office of Regulatory Relief, Kentucky Office of Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone: 502-696-5408, fax: (502) 573-8317, email: steve.humphress@ky.gov.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS, January 12, 2026)

201 KAR 26:155. Licensed psychologist: application procedures and temporary license.

RELATES TO: KRS 319.050

STATUTORY AUTHORITY: KRS 319.032(1) (a), (c)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(a) and (c) require the board to promulgate administrative regulations establishing the requirements for an applicant for licensure as a psychologist. This administrative regulation establishes the requirements for applicants for licensure and the conditions for a temporary license.

Section 1. Application.

(1) After the requirements established in KRS 319.050(2) are met, an application for a credential as a licensed psychologist or a temporarily licensed psychologist may be submitted to the board, to an online application management system contracted by the board for the purposes of application screening, or as the board directs.

(2) The application made to the board or to the online application management system shall include:

(a) A certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of their knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification;[~~,~~]

(b) Payment of the application fee ***established in 201 KAR 26:160, Section 1***, which shall be:

1. Made payable to the Kentucky State Treasurer if the application is processed through the board; or

2. Made to the online application management system as directed by the board;[~~,~~]

(c) Three (3) recommendations from persons qualified to evaluate the applicant's professional ability within five (5) years from the date of application, including two (2) persons who have received a doctorate in psychology (Ph.D., PsyD., Ed.D.). The recommendations shall be submitted on the Recommendation Form for Licensure as a Psychologist; and

(d) An official transcript for all levels of education required for licensure. Transcripts shall be received in sealed envelopes or electronically directly from the school or a third-party clearinghouse.

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Section 2. Temporary Licensure.

(1) Pending successful completion of required examinations, an applicant may request permission to practice psychology at the doctoral level on a temporary basis pursuant to KRS 319.050(3). The request for a temporary credential shall be cosigned by the candidate and the proposed supervisor, who shall be a licensed psychologist with health service provider certification approved by the board.

(2) Supervision during the period of temporary licensure shall be a minimum of one (1) hour of individual, face-to-face supervision on a weekly basis.

(3) A report of supervision shall be submitted on a regular basis as required by 201 KAR 26:171, Section 6.

(4) The candidate shall take the national ***Examination for Professional Practice in Psychology (***EPPP***)*** within one (1) year of the board's written approval of temporary licensure.

(5)

(a) A temporary license shall be valid for one (1) year from the date of the notice of approval by the board.

(b) During the period of temporary licensure, a candidate shall:

1. Successfully complete all credentials and examination procedures;

2. Pass the EPPP; and

3. Pass the Kentucky examinations as outlined in 201 KAR 26:230, Section 1(2), within one (1) year of the date of the notice of approval by the board for a temporary license.

(6)

(a) Under exceptional circumstances and upon written request cosigned by the ***board-approved***[~~***board approved***~~] supervisor, the board may approve an extension of the period of temporary licensure.

1. Exceptional circumstances include unforeseen events beyond the control of the temporary licensee that have a significant impact upon the temporary licensee's ability to complete the requirements in subsection (5)(b) of this section.

2. Some examples of exceptional circumstances include instances such as natural disasters, or illness or disability of the temporary licensee, or that of a family member of the temporary licensee.

(b) If a temporary licensee requires an extension after one (1) year, the licensee may request a six (6) month extension.

(c) After the six (6) months, a second extension may be requested for an additional six (6) months.

(d) After a total of two (2) years of temporary licensure, the licensee may request a second temporary license[~~***following the steps in this section***~~].

(e) If after two (2) years on the second temporary license another extension is requested, the licensee may request a third temporary license[~~***following the steps in this section***~~].

(f) Licensees shall not exceed a total of six (6) years of extensions for all temporary licenses nor hold a temporary license for longer than six (6) years.

(g) [~~***All extensions are provided by the board at the board's discretion.***~~]

[~~***(h)***~~] A licensee shall submit a completed Request for Extension of Temporary Licensure as a Psychologist to request an extension ***under this subsection***.

Section 3.

(1) An individual who submits an Application for Licensure as a Psychologist and has been approved by another state to take the EPPP shall submit:

(a) The official notice of the results of the EPPP from the state psychology regulatory board that approved the applicant to take the EPPP; or

(b) A request to ***the Association of State Provincial Psychology Boards (***ASPPB***)*** to release the results of the EPPP to the board and notify the board of the submission of the request.

(2) The applicant shall submit the official notice or notification of the request to ***the*** ASPPB to the board within thirty (30) days of taking the examination.

Section 4. Grace Period for Submission of Credentials. To allow for processing of the candidate's materials by the board, there shall be a grace period not to exceed ninety (90)[~~sixty (60)~~] days within which candidates who have completed their degree requirements may begin to practice psychology under supervision of a board-approved supervisor, as established in 201 KAR 26:190.

(1) Upon acceptance of employment or the beginning of the required period of supervision, the candidate and the licensed psychologist who shall serve as his or her supervisor shall immediately submit a letter of notice to the board indicating that he or she has begun to practice in Kentucky and that application materials are forthcoming. Failure to submit this notice shall be deemed as grounds for disciplinary action against the candidate and the supervisor.

(2) The candidate shall ensure that all materials are forwarded to the board within thirty (30) days from the date of employment or supervision. Once the application is complete, the board shall review the material at its next scheduled meeting and, if appropriate, issue either a temporary or permanent credential. If the candidate does not meet the requirements for the credential, or if the application material is insufficient to take any action, he or she shall be notified by the board and directed to cease practice until the requirements are met or the necessary documentation has been submitted.

(3) The grace period shall not be extended beyond ninety (90)[~~sixty (60)~~] days. Candidates who fail to achieve approval within this timeframe shall not practice psychology until credentialed by the board.

(4) Upon filing the notice set forth in Section 3(1) of this administrative regulation, the candidate is deemed to be practicing psychology under the jurisdiction of the board, and shall comply with KRS Chapter 319 and 201 KAR Chapter 26.

Section 5. Incomplete Application. An incomplete application shall be determined to be expired one (1) year from the date of filing, and may be destroyed.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Licensure as a Psychologist", October 2025[~~2021~~];

(b) "Recommendation Form for Licensure as a Psychologist", October[~~March~~]2025[~~2021~~]; and

(c) "Request for Extension of Temporary Licensure as a Psychologist", October[~~March~~]2025[~~2021~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Examiners of Psychology, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material is also available on the Board's Web site and the address is: https://psy.ky.gov.

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COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS, January 12, 2026)

201 KAR 26:160. Fee schedule.

RELATES TO: KRS 319.050(2)(a), 319.064(2)(a), 319.071(1)
STATUTORY AUTHORITY: KRS 319.032(1)(n), 319.071(1)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.050(2)***(a)***[~~(a)~~] and 319.064(2)(a) require an applicant to pay a fee for applying for licensure. KRS 319.071(1) requires a credential holder to pay a renewal fee established by the board. KRS 319.032(1)(n) requires the board to promulgate administrative regulations increasing or decreasing the fees for an applicant or credential holder as the board deems necessary. This administrative regulation establishes the application, licensure, and renewal fees for credential holders.

Section 1.

(1) Except as provided in subsection (3) of this section, an applicant for licensure as a psychologist shall pay[~~***the following***~~]:

(a) A $150[~~100~~] application review fee;

(b) The fee for taking the ***Examination for Professional Practice in Psychology (***EPPP***)***, which shall be paid directly to the ***Association of State Provincial Psychology Boards (ASPPB)***[~~***ASPPB***~~][ASPPB] examination contractor; and

(c) A $150[~~100~~] fee for taking the jurisprudence and competency examinations.

(2) Except as provided in subsection (3) of this section, an applicant for licensure as a psychological associate shall pay[~~***the following***~~]:

(a) A $150[~~100~~] application review fee; and

(b) The fee for taking the EPPP, which shall be paid directly to the ***ASPPB***[~~***ASPPB***~~][ASPPB] examination contractor.

(3) The examination fee established in ***subsection*** [~~subsection~~](1)(b) or (2)(b) of this section shall be waived if a candidate has:

(a) Previously taken the EPPP in another state; and

(b) Achieved a score which would be considered as passing in Kentucky.

(4) Upon successful completion of the application and examination processes, the initial licensure fees shall be as ***established in paragraphs (a) and (b) of this subsection.***[~~***follows:***~~]

(a) An applicant for licensure as a psychologist or psychological practitioner shall pay $795[~~250~~] for the first three (3) year period.[~~;~~]

(b) An applicant for licensure as a psychological associate shall pay $525[~~200~~] for the first three (3) year period.

(5) Every three (3) years a licensed psychologist, certified psychologist with autonomous functioning, or licensed ***psychological***[~~***psychologist***~~][~~psychological~~] practitioner shall pay to the board a renewal fee of $795[~~450~~].

(6) Every three (3) years a certified psychologist or licensed psychological associate shall pay to the board a renewal fee of $525[~~300~~].

Section 2. The late renewal fee for late renewal during the three (3) month period shall be $100[~~seventy-five (75) dollars~~].

Section 3. The reinstatement fee for licensure shall be $300[~~100~~].

Section 4. The fee for registration as a nonresident psychologist shall be $300[~~100~~].

Section 5.

(1) If the applicant fails the [~~***Examination for Professional Practice in Psychology (***~~]EPPP[~~***)***~~] and applies to retake the examination, the applicant shall submit the examination fee as established by the ***ASPPB***[~~***ASPB***~~][~~ASPPB~~] examination contractor directly to the contractor.

(2) If the applicant fails either the jurisprudence or competency examination and applies to retake the examination, the fee shall be $250[~~fifty (50) dollars~~] for each attempt.

Section 6. An application for licensure by reciprocity shall be accompanied by a fee of $150[~~100~~].

Section 7. All fees required by this administrative regulation shall be nonrefundable.

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BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS, January 12, 2026)

201 KAR 26:171. Requirements for clinical supervision.

RELATES TO: KRS 319.032(1)(l), 319.050(3), (6), 319.056(4), (5), 319.064(3), (5), 319.082(1), 319.092(3)(d), 319.118(1)
STATUTORY AUTHORITY: KRS 319.032(1)(l)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(l) requires the board to promulgate an administrative regulation governing the clinical supervision of a certified psychologist, licensed psychological associate, candidate for licensure, or a credential holder sanctioned by the board. This administrative regulation establishes the requirements for clinical supervision.

Section 1. Board Approval Required.

(1) Except for graduate students as provided in Section 14 of this administrative regulation, a supervisory arrangement shall have the prior approval of the board, with both clinical supervisor and supervisee petitioning the board in writing.

(2) If there is a change in clinical supervision[~~supervisor~~] or in the supervisory arrangement, the clinical supervisor and supervisee shall:

(a) Proceed with the change as soon as practicable so as to avoid a lapse of clinical supervision for the supervisee; and

(b) Notify the board within thirty (30) days of the change for approval of the change of clinical ***supervision***[~~***supervisor***~~] or supervisory arrangement.

(3) It shall be the joint responsibility of the clinical supervisor and the supervisee to ***ensure***[~~***assure***~~] that all reports, plans and goals, or other records of a supervisory relationship required by KRS Chapter 319, or ***Sections 6, 8, 9, 11, and 12 of this***[~~***these***~~] administrative ***regulation***[~~***regulations***~~], are complete and filed with the board in a timely manner.

Section 2. Clinical and Supervision Requirements.

[~~(1)~~] All clinical supervision requirements shall:

(1)[~~(a)~~] Be met with individual, [~~face-to-face, ~~]weekly contact either in person or via 2-way interactive video between clinical supervisor and supervisee[~~ except as provided in subsection (2) of this section and Sections 11 and 14 of this administrative regulation~~]; and

(2)[~~(b)~~] Include additional clinical supervision sessions as needed.

[~~(2)~~] [~~An alternative format of clinical supervision, including two (2) way interactive video, may be substituted for the supervisory contact, required by subsection (1) of this section, upon specific approval by the board.~~]

Section 3. Relief from Clinical Supervision Requirements During Inactive Period.

(1) A certified psychologist or licensed psychological associate may petition the board to be relieved of his or her obligation to maintain clinical supervision during which period he or she shall not practice psychology.

(2) The certified psychologist or licensed psychological associate shall obtain a clinical supervisor approved by the board before the resumption of practice.

(3) Upon resumption of practice, the certified psychologist or licensed psychological associate shall:

(a) Document compliance with continuing education requirements; and

(b) Report on his or her activities and employment related to psychology during the period without clinical supervision.

Section 4. Training and Continuing Education for Clinical Supervisors.

(1) A licensed psychologist with health service provider designation who has been approved by the board as a clinical supervisor shall attend a ***board-approved***[~~***board approved***~~] training session in clinical supervisory practices within twelve (12) months of obtaining approval as a supervisor.

(2) A ***board-approved***[~~***board approved***~~] clinical supervisor shall obtain a minimum of three (3) continuing education hours in clinical supervision theory or techniques in each three (3) year renewal cycle as required by 201 KAR 26:175, Section 2(4)(a). The board shall suspend its approval of a clinical supervisor if the clinical supervisor does not complete the required continuing education.

Section 5. Clinical Supervision[~~Supervisor~~] Obligations.

(1) The clinical supervisor shall make all reasonable efforts to be ***ensured***[~~***assured***~~] that each supervisee's practice ***complies***[~~***is in compliance***~~] with this administrative regulation.

(2) The clinical supervisor shall report to the board an apparent violation of KRS 319.082(1) on the part of the supervisee.

(3) The clinical supervisor shall inform the board immediately of a change in the ability to clinically supervise, or in the ability of a supervisee to function in the practice of psychology in a competent manner.

(4) The clinical supervisor shall control, direct, or limit the supervisee's practice as appropriate to ensure that the supervisee's practice of psychology is competent.

(5) The clinical supervisor of record shall be responsible for the practice of psychology by the supervisee. If the board initiates an investigation concerning a supervisee, the investigation shall include the clinical supervisor of record.

(6) For each person supervised pursuant to KRS 319.050(3), (6), 319.056(4), (5), 319.064(3), (5), or 319.092(3)(d), the clinical supervisor shall maintain a record of each supervisory session that shall include the type, place, and general content of the session. This record shall be maintained for a period of not less than six (6) years after the last date of clinical supervision.

Section 6. Clinical Supervision Reports[~~Supervisory Report~~].

(1) In calculating the amount of time spent in full-time practice while under clinical supervision, 1,800 hours of supervised practice shall be equivalent to one (1) year of experience.

(2) The clinical supervisor shall submit a Supervisory Report to the board of the clinical supervision of each supervisee according to the following schedule:

CREDENTIAL STATUS	REPORTING PERIOD	REPORT DUE DATE(S)
(a) Licensed psychological associate or certified psychologist with 4 or more years of full-time practice, or its equivalent	Every 2 years (with prior board approval)	Anniversary date of supervisee's licensure
(b) Licensed psychological associate or certified psychologist with fewer than 4 years of full-time practice, or its equivalent	Yearly	Anniversary date of supervisee's licensure
(c) Temporarily licensed psychologist	Every 6 months and 1 month prior to jurisprudence and competency examinations	
(d) Temporarily licensed psychological associate	Every 6 months	
(e) Sanctioned credential holder	Quarterly	January, April, July, and October 15th

(3) The report shall include:

(a) A description of the frequency, format, and duration of clinical supervision;

(b) An assessment of the functioning of the supervisee, including the strengths and weaknesses of the supervisee; and

(c) Other information which may be relevant to an adequate assessment of the practice of the supervisee.

Section 7. Multiple Clinical Supervisors.

(1) If a supervisee has more than one (1) board-approved clinical supervisor, the clinical supervisors shall be in direct contact with each other at least once every six (6) months, and they shall provide Supervisory Plans and Goals to the board and copies to each other.

(2) A request to have more than two (2) clinical supervisors at one (1) time shall require a special application to the board that shall include detailed information as to how the clinical supervisors shall communicate and coordinate with each other in providing the required clinical supervision.

Section 8. Clinical Supervisor Responsibilities. The clinical supervisor [~~of record~~]shall:

(1) Review and countersign psychological assessments as appropriate based on the supervisee's level of experience;

(2) Review treatment plans, progress notes, and correspondence as needed to assess the competency of the supervisee to render psychological services;

(3) Jointly establish with the supervisee Supervisory Plans and Goals that shall be submitted to the board at the beginning of the supervisory relationship. The Supervisory Plans and Goals shall:

(a) Be updated or revised and submitted to the board with the regular report of clinical supervision;

(b) Include intended format and goals to be accomplished through the supervisory process; and

(c) Include methods that the clinical supervisor and supervisee shall employ to evaluate the supervisory process.

(4) Have direct observation of the supervisee's work:

(a) For a licensed psychological associate or a certified psychologist with less than four (4) years of full-time, post-licensure practice, or its equivalent, or a licensure candidate with temporary permission to practice, direct observation shall take place at least once every two (2) months;

(b) For a licensed psychological associate or certified psychologist with more than four (4) years of full-time, post-licensure practice, or its equivalent, direct observation shall take place as needed; ***and***

(c) Direct observation may be accomplished through audiotaping, video camera, videotaping, one (1) way mirror, or as a co-therapist.

(5) Have direct knowledge of the size and complexity of the supervisee's caseload;

(6) Limit and control the caseload as appropriate to the supervisee's level of competence;

(7) Have knowledge of the therapeutic modalities and techniques being used by the supervisee; and

(8) Have knowledge of the supervisee's physical and emotional well-being when it has a direct bearing on the supervisee's competence to practice.

Section 9. Supervisee Responsibilities.

(1) The supervisee shall:

(a) Keep the clinical supervisor adequately informed at all times of his or her activities and ability to function; and

(b) Seek clinical supervision as needed in addition to a regularly scheduled supervisory session.

(2) The supervisee shall:

(a) Participate with the clinical supervisor in establishing Supervisory Plans and Goals and in completing the regular Supervisory Reports;

(b) Be jointly responsible with the clinical supervisor for ensuring that a Supervisory Report has been sent to the board in accordance with the reporting schedule established in Section 6(2) of this administrative regulation; and

(c) Report to the board an apparent violation of KRS 319.082(1) on the part of the clinical supervisor.

Section 10. Identification of Provider. The actual deliverer of a service shall be identified to the client. A billing for a rendered service shall identify which service was performed by the certified psychologist, licensed psychological associate, temporary licensed psychologist, trainee, or other provider and supervised by the licensed psychologist.

Section 11. Frequency of Clinical Supervision.

(1) A licensed psychological associate or certified psychologist shall have a minimum of one (1) hour of individual [***~~face-to-face~~***]clinical supervision on a weekly basis for the first two (2) years of full-time practice or its equivalent following licensure.

(2) After two (2) years of full-time, post-licensure practice, or its equivalent, the clinical supervisor and supervisee may petition the board using a Request for Change of Supervisor and/or Frequency form to alter the format, frequency, or duration of supervision if the proposed change includes a minimum of two (2) one (1) hour individual [~~face-to-face~~] meetings every four (4) weeks, and the total amount of clinical supervision is not less than four (4) hours per four (4) week period. This petition may include a request to change the format from individual to group clinical supervision. Clinical Supervision requirements for part-time practice may be modified at the discretion of the board upon approval of the submitted plan.

(3)

(a) After four (4) years of full-time, post-licensure practice, or its equivalent, the clinical supervisor and supervisee may petition the board for further modification of the format, frequency, or duration of supervision using a Request for Change of Supervisor and/or Frequency form, if the proposed change includes a minimum amount of one (1) hour of [~~face-to-face~~]clinical supervision per month. Additional modifications of the format, frequency, or duration of clinical supervision may be submitted for approval by the board.

(b) Upon a change of clinical supervisor, a new Supervisory Plans and Goals shall be submitted by the clinical supervisor and supervisee to the board for approval. This plan may require additional clinical supervision than was previously approved by the board.

(c) Upon termination of the supervisor-supervisee relationship, the final Supervisory Report shall be submitted to the board within thirty (30) days of the termination.

(4) Any change in the frequency or duration of clinical supervision under this section may not occur automatically, but only upon a written request to the board and approval of the request by the board.

Section 12. Clinical Supervision of a Disciplined Credential Holder.

(1) The board shall appoint an approved clinical supervisor to supervise a disciplined credential holder for the period of time defined by the board.

(2) The disciplined credential holder shall be responsible for paying the fee for clinical supervision.

(3) The clinical supervisor shall have completed the board approved training course in supervision.

(4) The clinical supervisor shall:

(a) Review the originating complaint, agreed order, or findings of the disciplinary hearing;[:]

(b) Meet with the disciplined credential holder and the board liaison to:

1. Summarize the actions and concerns of the board;

2. Review the goals and expected outcomes of clinical supervision submitted by the board liaison;

3. Develop a specific plan of clinical supervision; and

4. Review the reporting requirements that shall be met during the period of clinical supervision.

(c) Meet with the disciplined credential holder at least weekly, on an individual [~~face-to-face~~]basis (as described in [***~~201 KAR 26:171~~***][]Section 2 ***of this administrative regulation***) for a minimum of one (1) hour unless modified by the board;

(d) Submit a quarterly report to the board which reflects progress, problems, and other in-formation relevant to the need for board-mandated supervision;

(e) Make all reasonable efforts to ensure that the disciplined credential holder's practice ***complies***[***~~is in compliance~~***] with KRS Chapter 319 and 201 KAR Chapter 26;

(f) Report to the board any apparent violation of KRS 319.082(1) on the part of the disciplined credential holder;

(g) Immediately report to the board in writing a change in the ability to clinically supervise, or in the ability of the disciplined credential holder to function in the practice of psychology in a competent manner;

(h) Review and countersign psychological assessments as needed or appropriate;

(i) Review treatment plans, notes, and correspondence as needed or appropriate;

(j) Have direct observation of the disciplined credential holder's work on an as-needed basis;

(k) Have direct knowledge of the size and complexity of the disciplined credential holder's caseload;

(l) Have knowledge of the therapeutic modalities and techniques being used by the disciplined credential holder; and

(m) Have knowledge of the disciplined credential holder's physical and emotional well-being when it has direct bearing on the disciplined credential holder's competence to practice.

(5) The clinical supervisor shall control, direct, or limit the disciplined credential holder's practice as appropriate to ensure that the disciplined credential holder's practice is competent.

(6) The clinical supervisor shall contact the board liaison with any concern or problem with the disciplined credential holder, his or her practice, or the supervision process.

(7) A final meeting shall be scheduled within thirty (30) days of the end of the established supervision period to summarize the clinical supervision. The meeting shall include the clinical supervisor, disciplined credential holder, and board liaison. A written summary of the supervision shall be submitted by the clinical supervisor to the board two (2) weeks following this meeting with a copy to the board liaison.

Section 13. Board Liaison for Disciplined Credential Holder. The board shall appoint a board member to serve as a liaison between the board and the approved clinical supervisor. The board liaison shall:

(1) Recruit the clinically supervising psychologist from a list provided by the board;[.]

(2) Provide the clinically supervising psychologist with the originating complaint, agreed order, or findings of the hearing and supply other material relating to the disciplinary action as deemed appropriate by the liaison;

(3) Ensure that the clinically supervising psychologist is provided with the necessary documentation for liability purposes to clarify that he or she is acting as an agent of the board pursuant to KRS 319.118(1) and has immunity commensurate with that of a board member;

(4) Provide the clinically supervising psychologist with a written description of the responsibilities of the clinical supervisor and a copy of the responsibilities of the liaison;

(5) Ensure that the board has sent a written notification letter to the disciplined credential holder. The notification letter shall:

(a) State the name of the supervising clinical psychologist; and

(b) Specify that the disciplined credential holder shall meet with the clinical supervising psychologist and the liaison within thirty (30) days of the date of the notification letter.

(6) Meet with the clinically supervising psychologist and disciplined credential holder within thirty (30) days of the date of the notification letter to summarize the actions of the board, review the applicable statutes and administrative regulations regarding clinical supervision requirements for a disciplined credential holder, and assist with the development of a plan of supervision. The plan of supervision shall be written at the first meeting;

(7) Submit the report of supervision to the board for approval. The liaison shall place the report of supervision on the agenda for review and approval at the next regularly scheduled board meeting. In the interim, the clinically supervising psychologist and disciplined credential holder shall continue to meet;

(8) Remain available to the clinically supervising psychologist to provide assistance and information as needed;

(9) Report any problem or concern to the board regarding the supervision and communicate a directive of the board to the clinically supervising psychologist;

(10) Review the quarterly report of supervision and forward the report to the supervision committee of the board for approval; and

(11) Meet with the clinically supervising psychologist and the disciplined credential holder at the end of the term of supervision to summarize the clinical supervision.

Section 14. Psychology Graduate Students. Graduate-level psychology students who are providing services in psychological health care settings including independent practice settings shall:

(1) Be clinically supervised by a psychologist licensed by the Board of Examiners of Psychology with health service provider status, licensed at the doctoral level by the State Board of Examiners in the state in which the training program exists, or by a licensed mental health professional approved by the training program who is affiliated with either the university training program or the practice setting;

(2) Be registered for credit in his or her course of study;

(3) Clearly identify their status as unlicensed psychology trainees to all clients and payers;

(4) Give to all clients and payers the name of the licensed psychologist responsible for their work; and

(5) Not accept employment or placement to perform the same or similar activities following the completion of their university-sanctioned placement, regardless of the job title given, unless the student holds a license from the board.

Section 15. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Supervisory Plans and Goals",

October[~~December~~]2025[~~2018~~];

(b) "Supervisory Report", October[~~December~~]2025[~~2018~~]; and

(c) "Request for Change of Supervisor and/or Frequency", October 2025[~~2016~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Examiners of Psychology, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. ***This material is also available on the board's website at https://psy.ky.gov.***

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BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(As Amended at ARRS, January 12, 2026)

201 KAR 26:280. Licensed psychological associate: application procedures and temporary license.

RELATES TO: KRS 319.064

STATUTORY AUTHORITY: KRS 319.032(1)(a), (c)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(a) and (c) require the Board of Examiners of Psychology to promulgate administrative regulations establishing the requirements for an applicant for licensure as a psychological associate. This administrative regulation establishes the requirements for applicants for licensure and the conditions for a temporary license

Section 1. Application.

(1) After the requirements established in KRS 319.064(2) are met, an application for a credential to perform certain functions as a licensed psychological associate may be submitted to the board, to an online application management system contracted by the board for the purposes of application screening, or as the board directs.

(2) The application required by subsection (1) of this section shall be made to the board ***using the Application for Licensure as a Psychological Associate*** or to the online application management system and shall:

(a) Include a certification by the applicant that the:

1. Information in the application is true, correct, and complete to the best of their knowledge and belief; and

2. Applicant is aware that the board may take disciplinary action if the application contains a misrepresentation or falsification;[.]

(b) Be accompanied by payment of the application fee ***established in 201 KAR 26:160, Section 1*** that shall:

1. Be made payable directly to the Kentucky State Treasurer if the application is processed through the board; or

2. Be made to the online application management system as directed by the board;[.]

(c) Include three (3) letters of reference or completed Recommendation Form for Licensure as a Psychological Associate from persons qualified to evaluate the applicant's professional ability, including two (2) persons who have received a doctorate in psychology (Ph.D., Psy.D., or Ed.D.); and

(d) Include an official transcript for all levels of education required for licensure. Transcripts shall be received in sealed envelopes or electronically directly from the school or a third-party clearinghouse.

(3) Incomplete Application. An incomplete application shall be determined to be expired one (1) year from the date of filing, and may be destroyed.

Section 2. Temporary Licensure.

(1) An applicant may request permission to perform functions as a licensed psychological associate on a temporary basis pursuant to KRS 319.064(3).

(2) The request for a temporary credential shall be co-signed by the candidate and the ***proposed[***pro-[~~***posed***~~] supervisor, who shall be a licensed psychologist approved by the board and who holds the health services provider designation.

(3)

(a) A temporary license shall be valid for one (1) year from the date of the notice of approval by the board.

(b) During the period of temporary licensure, a candidate shall:

1. Successfully complete all credentials and examination procedures; and

2. Pass the Examination for Professional Practice in Psychology (EPPP).

(4)

(a) Under exceptional circumstances and upon written request cosigned by the ***board-approved***[~~***board approved***~~] supervisor, the board may approve an extension of the period of temporary licensure.

1. Exceptional circumstances include unforeseen events beyond the control of the temporary licensee that have a significant impact upon the temporary licensee's ability to complete the requirements in subsection (3)(b) of this section.

2. Some examples of exceptional circumstances include instances such as natural disasters, or illness or disability of the temporary licensee, or that of a family member of the temporary licensee.

(b) A licensee shall submit a completed Request for Extension of Temporary Licensure as a Psychological Associate to the board to request an extension ***under this subsection.***

(c) [.] If a temporary license requires an extension after one (1) year, the licensee may request a six (6) month extension.

(d) After the six (6) months, a second extension may be requested for an additional six (6) months.

(e) After a total of two (2) years of extensions, the licensee may request a second temporary license[~~***following the steps in this section***~~].

(f) If after two (2) years on the second temporary license another extension is requested, the licensee may request a third temporary license[~~***following the steps in this section***~~].

(g) Licensees shall not exceed a total of six (6) years of extensions for all temporary licenses nor hold a temporary license longer than six (6) years.

[~~***(h)***~~] [~~***All extensions are provided by the board at the board's discretion.***~~]

Section 3. Grace Period for Submission of Credentials. To allow for processing of the candidate's materials by the board, there shall be a grace period not to exceed ninety (90)[~~sixty (60)~~] days within which a candidate who has completed his or her degree requirements may begin employment by an agency to practice psychology under supervision with a board-approved supervisor.

(1) Upon acceptance of employment, the candidate and the licensed psychologist with health service practitioner designation who shall serve as the clinical supervisor shall immediately submit a letter of notice to the board indicating that he or she has begun to practice in Kentucky and that application materials are forthcoming. Failure to submit this notice may be grounds for disciplinary action against the candidate and the clinical supervisor.

(2) It shall be the responsibility of the candidate to ensure that all materials are forwarded to the board within thirty (30) days from the date of agency employment. Once the application is complete, the board shall review the material at its next scheduled meeting and, if appropriate, issue either a temporary or permanent credential. If the candidate does not meet the requirements for the credential, or if their application material is insufficient to take any action, they shall be directed to cease practice until the requirements are met.

(3) The grace period shall not be extended beyond ninety (90)[~~sixty (60)~~] days. A candidate who fails to achieve approval within this timeframe shall not practice psychology until credentialed by the board.

(4) Upon filing the notice set forth in subsection (1) of this section, the candidate shall be practicing psychology under the jurisdiction of the board, and shall be subject to KRS Chapter 319 and 201 KAR Chapter 26.

Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Licensure as a Psychological Associate", October[~~March~~]2025[~~2021~~];

(b) "Recommendation Form for Licensure as a Psychological Associate", October[~~March~~]2025[~~2021~~]; and

(c) "Request for Extension of Temporary Licensure as a Psychological Associate", October[~~March~~]2025[~~2021~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Examiners of Psychology, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. ***This material is also available on the board's website at https://psy.ky.gov.***

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EDUCATION AND LABOR CABINET
Board of Education
Department of Education
(As Amended at ARRS, January 12, 2026)

701 KAR 5:150. Nontraditional instruction program.

RELATES TO: KRS 158.070

STATUTORY AUTHORITY: KRS 156.029, 156.070, 156.160, 158.070

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.029 (9)[~~(7)~~] requires the Kentucky Board of Education (KBE) to adopt policies and administrative regulations by which the Kentucky Department of Education (department) shall be governed in planning and operating programs within its jurisdiction. KRS 156.070(5) requires the KBE, upon the recommendation of the Commissioner of Education (Commissioner), to establish policy or act on all programs, services, and other matters which are within the administrative responsibility of the department. KRS 158.070 requires the KBE to promulgate an administrative regulation to prescribe the conditions and procedures for local education agencies (districts) to be approved for the nontraditional instruction program. This administrative regulation establishes the requirements and approval process for districts to be approved for the nontraditional instruction program.

Section 1. Definitions.

(1) "Comprehensive District Improvement Plan" shall have the same meaning as defined in 703 KAR 5:225, Section 1(3).

(2) "Continuation of learning" means the provision of rigorous educational activities that extend or maintain progress within the established curriculum and instructional sequence.

(3) ***"District Nontraditional Instruction Contact" means the designated individual responsible for overseeing the implementation, coordination, and compliance of nontraditional instruction activities within a school district***

[~~(2)~~] [~~***"Instructional delivery method" means the delivery system and instructional techniques used in meeting the learning needs of students regardless of their physical location***~~].

(4) ***"Instructional delivery method" means the delivery system and instructional techniques used in meeting the learning needs of students regardless of their physical location***[~~***"District Nontraditional Instruction Contact" means the designated individual responsible for overseeing the implementation, coordination, and compliance of nontraditional instruction activities within a school district***~~].

(5) "Learning loss" means a measurable decline or stagnation in student academic performance resulting from short-term interruptions to traditional, in-person instruction.

(6)[~~(3)~~] "Minimum school term" or "school term" is defined in KRS 158.070(1)(b).

(7)[~~(4)~~] "Nontraditional instruction day" means a day during the school term that a local school district is closed for health or safety reasons that is approved by the commissioner, pursuant to KRS 158.070(9), to be the equivalent to a student attendance day.

(8)[~~(5)~~] "Nontraditional instruction plan" means the strategy approved by the commissioner and implemented by a local school district to ensure instruction on nontraditional instruction days is a continuation of learning that is occurring on regular student attendance days as required by KRS 158.070(9).

(9)[~~(6)~~] "Professional learning plan" means the strategy implemented to ensure staff in a local school district acquire, enhance, and refine the knowledge, skills, practices, and dispositions necessary to create and support high levels of learning for all students.

(10)[~~(7)~~] "Student attendance day" is defined in KRS 158.070(1)(e).

Section 2. Nontraditional Instruction Plan.

(1) A district seeking commissioner approval, pursuant to KRS 158.070, of a nontraditional instruction plan shall annually incorporate it within the Comprehensive District Improvement Plan.

(2) A nontraditional instruction plan incorporated within the Comprehensive District Improvement Plan shall:

(a) Provide an overview of the district's vision for ensuring a continuation of learning when implementing nontraditional instruction;

(b) Describe in detail:

1. How instruction shall be delivered for students in nontraditional settings;

2. The steps the district shall take to ensure a continuation of learning occurs for students in nontraditional settings;

3. How, if at all and to the extent permitted by applicable statutes and administrative regulations, the district shall ensure a continuation of learning occurs for those students utilizing, for any reason, nontraditional instruction during time periods when the district may be offering and providing in-person instruction to other students;

4. How the district shall ensure a continuation of learning for students with Individual Education Plans in nontraditional settings;

5. Additional efforts that may be necessary to ensure a continuation of learning for other special populations of students in nontraditional settings;

6. How the district has coordinated or will coordinate with other educational entities to ensure a continuation of learning for students in nontraditional settings;

7. How teachers shall instruct, support, and communicate with students [~~***in order***~~] to ensure academic progress as well as promote social and emotional well-being for students in nontraditional settings;

8. The professional learning activities the district shall provide certified staff to ensure they have the skills necessary to provide a continuation of learning for students in nontraditional settings;

9. How the district shall deploy all staff when school is closed to in-person instruction;

10. The partnerships the district has established with other community agencies to increase opportunities for a continuation of learning for students in nontraditional settings; [and]

11. The district's communication plan for parents, students, and community members for students in nontraditional settings;

12. The district's plan for collecting and archiving the evidence of student learning samples required by Section 3(3) of this ***administrative*** regulation; and

13. The name and contact information for the districts nontraditional instruction contact.

(c) Explain how the nontraditional instruction plan relates to district goals; and

(d)[(d)] Provide other evidence deemed necessary by the department to effectively review and approve or deny a district's nontraditional instruction plan.

(3) The department shall provide technical assistance, upon request, to districts prior to the incorporation of a nontraditional instruction plan within the Comprehensive District Improvement Plan.

(4) A district shall submit the nontraditional instruction plan to the department by May 1 for implementation at the beginning of the upcoming school term.

(5) The commissioner or his designee shall review and approve or deny a completed nontraditional instruction plan within forty-five (45) days from receipt.

(6) An approved nontraditional instruction plan shall be effective only for one ***(1)*** school year.

(7)[(6)]

(a) A district approved to participate in the nontraditional instruction program may amend its nontraditional instruction plan as needed at any time by submitting a written amendment request to the department.

(b) The amendment request shall contain a description of the amendment, proposed timeline for implementation, and justification for the request.

(c) The Commissioner or his designee shall review the amended nontraditional instruction plan and approve or deny it within forty-five (45) days of the amendment submission.

(d) Amendments made to a district approved plan shall not be implemented until after the amendment is approved by the department.

Section 3. Documentation[Use]of Nontraditional Instruction Days.

(1) Upon approval of a district's nontraditional instruction plan,[If a district is approved by the commissioner or his designee to participate in the nontraditional instruction program, the district may apply for and] the commissioner may approve the use of nontraditional instruction days on days when the district is closed for health or safety reasons pursuant to KRS 158.070.

[(2)] [The district shall seek approval from the commissioner to use one (1) or more nontraditional instruction days by submitting a request and appropriate supplemental documentation, as required by the department, to the department within thirty (30) days following the day the district was closed for health or safety reasons.]

(2) An approved nontraditional instruction plan grants the district the ability to use one (1) or more nontraditional instruction days. Each day ***shall***[***must***] be properly recorded in the statewide student information system prior to the last day of the school year.

[(3)] [The commissioner shall approve or deny a district's use of one (1) or more nontraditional instruction days within thirty (30) days from receipt of the district's request and appropriate supplemental documentation, as required by the department. A request to use one (1) or more nontraditional instruction days shall be denied by the commissioner if the district fails to supply clear]

(3) Districts shall maintain an archive of clear evidence demonstrating that a continuation of learning from regular student attendance days occurs on nontraditional instruction days. Clear evidence may include:

(a) Examples of student work;

(b) Lesson plans;[or]

[(c)] [Curriculum maps.]

(c) Reports from online learning management systems;

(d) Examples of teacher-student communication; or

(e) Other documentation determined appropriate by the district nontraditional instruction contact in consultation with the Department.

(4) The district archive described in subsection 3 of this section shall include the following:

(a) For students in Kindergarten through Fifth Grade, one ***(1)*** piece of clear evidence of student learning for each grade level for reading, math, and one ***(1)*** other content area for each nontraditional instruction day; and

(b) For students in sixth through twelfth grade, one ***(1)*** piece of clear evidence of student learning for each grade level in each content area for each nontraditional instructional day.

Section 4. Monitoring [and Revocation]of Nontraditional Instruction Programs.

(1) At the conclusion of each school term, a district[approved by the commissioner or his designee to participate in the nontraditional instruction program] may be required to participate in monitoring conducted by[receive an annual site visit from] a review team selected and trained by the department. The purpose of the monitoring[site visit] is to monitor the district's progress in implementing the approved nontraditional instruction plan. Monitoring may be performed on or off site as determined by the Commissioner or his designee.

(2) If monitoring[a site visit] is conducted by the department, it[the site visit] shall:

(a) Be made following adequate advanced notice to the district; and

(b) Include the gathering of information through the examination of records related to the district's implementation of the approved nontraditional instruction plan, including amendments if applicable, and through interviews with district leadership, staff, and students as well as other stakeholders.

(3) In addition to any monitoring[site visit] that may be conducted pursuant to subsections (1) and (2) of this section, a district[approved by the commissioner or his designee to participate in the nontraditional instruction program] shall, upon request, make the following available for inspection by the department:

(a) Documentation of the instructional delivery methods used on nontraditional instruction days;

(b) Evidence demonstrating the district provides access on nontraditional instruction days to online resources, if used, and equitable instructional materials for students who do not have access to the internet and for students needing to access information differently;

(c) Clear evidence demonstrating a continuation of learning from regular student attendance days occurs on nontraditional instruction days;[. Clear evidence may include:]

[1.] [Examples of student work;]

[2.] [Lesson plans; or]

[3.] [Curriculum maps.]

(d) Evidence demonstrating the district ensures implementation of Individual Education Programs for students with disabilities, including the involvement of the Admissions and Release Committee in planning for and making decisions related to the participation and needs of students with disabilities, on nontraditional instruction days;

(e) Evidence demonstrating the district ensures implementation of other student-specific educational plans, including Program Service Plans for English Learners and Gifted Student Service Plans for students identified as gifted and talented, on nontraditional instruction days;

(f) Data demonstrating student participation and student learning on nontraditional instruction days;

(g) Evidence demonstrating how each job category within the district fulfills contractual obligations on nontraditional instruction days and data, including teacher work logs, demonstrating employee participation on nontraditional instruction days;

(h) The professional learning plan implemented by the district to ensure certified staff have the knowledge and capacity to provide instruction on nontraditional instruction days and evidence demonstrating implementation;

(i) Where appropriate, agreements about nontraditional instruction days between the district and educational agencies that are external to the district but have students of the district in attendance on a part-time or full-time basis;

(j) Evidence demonstrating stakeholder involvement in developing and implementing nontraditional instruction days;

(k) Methods used by the district to relay information about nontraditional instruction days to students and families; and

(l) Other evidence deemed necessary by the department to effectively monitor the implementation of the approved nontraditional instruction plan, including amendments if applicable.

Section 5. Corrective Action.

(1)[(4)] The commissioner or his designee may require a period of corrective action and enhanced monitoring[revoke approval] of a district's nontraditional instruction program as a result of evidence collected pursuant to [this section]monitoring conducted under Section 4 of this ***administrative*** regulation.

(2)[(5)] If the determination to require corrective action was made as the result of off-site monitoring, the district [Prior to having approval of its nontraditional instruction program revoked, a district]shall receive a site visit from a review team selected and trained by the department. The site visit shall include the same requirements as the on-site monitoring visit ***established*** in Section 4 ***of this administrative regulation***.[The purpose of the visit shall be to monitor the district's progress in implementing the nontraditional instruction program, collect qualitative data on the effectiveness of the nontraditional instruction program, and verify the district's compliance with all applicable laws. A site visit shall be made following adequate advance notice to the district and may include the gathering of information through:]

[(a)] [Direct observation;]

[(b)] [Interviews with staff and students; or]

[(c)] [Examination of records.]

(3) Following the on-site monitoring, the Department ***shall***[***will***] develop a corrective action plan in collaboration with the district. The corrective action plan shall include:

(a) A description of each area of noncompliance identified by the monitoring team and the supporting evidence used to identify the area of noncompliance;

(b) Specific actions to be taken by the district to remedy issues of noncompliance; and

(c) A timeline for the completion of the specific actions required in paragraph (b) above.

(4) A district shall be released from corrective action following the successful completion of the corrective action plan.

(5) A district that has exited corrective action shall undergo an on-site monitoring visit in the school year following the completion of the corrective action plan to ensure that compliance has been sustained.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

FILED WITH LRC: January 12, 2026

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email: regcomments@education.ky.gov.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

EDUCATION AND LABOR CABINET
Board of Education
Department of Education
(As Amended at ARRS, January 12, 2026)

701 KAR 5:170. Waiver requests.

RELATES TO: KRS 156.070, 156.160, 156.161, 157.360, 158.854

STATUTORY AUTHORITY: KRS 156.070, 156.161

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 authorizes the Kentucky Board of Education to manage and control the common schools, including prescribing administrative regulations the Kentucky Board of Education deems necessary for the efficient management, control and operation of public schools. KRS 156.161 authorizes the Kentucky Board of Education to promulgate administrative regulations to establish procedures for processing requests to waive statutes or administrative regulations pursuant to KRS 156.161. This administrative regulation sets forth the procedures for processing requests to waive statutes or administrative regulations pursuant to KRS 156.161.

Section 1. Definitions.

(1) "Amendment application" means a waiver request wherein a school district board of education seeks to amend the waiver of a statute or administrative regulation previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.

(2) "Commissioner" means the commissioner of the department.

(3) "Department" means the Kentucky Department of Education.

(4) "New application" means a waiver request wherein a school district board of education seeks a waiver of a statute or administrative regulation not previously granted to the requestor by the Kentucky Board of Education, or previously granted to the requestor by the Kentucky Board of Education but expired or terminated as of the date of the waiver request.

(5) "Renewal application" means a waiver request wherein a school district board of education seeks renewal of a waiver of a statute or administrative regulation previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.

(6) "Special education maximum class size application" means a waiver request wherein a superintendent or school-based decision making council seeks a waiver of the special education class sizes prescribed in 707 KAR 1:350, or to renew a waiver of the special education class sizes prescribed in 707 KAR 1:350 previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.

(7) "Waiver request" means a request to waive statutes or administrative regulations made pursuant to KRS 156.161 and this administrative regulation.

Section 2. Waiver Request Application.

(1) A waiver request shall be in the form of a new application, a renewal application, an amendment application, or a special education maximum class size application, and shall comply with the requirements of this section.

(2) A waiver request shall be submitted by U.S. mail to the department with the phrase "Attn: Waiver Request" in the address. The Commissioner may allow email submission of waiver requests at his or her discretion to an email address selected by the Commissioner.

(3) A new application shall include an Application Cover Sheet, and attached thereto a Specific Waiver Request Form for each statute or administrative regulation from which the requestor seeks a waiver.

(4) A renewal application shall include an Application Cover Sheet, and attached thereto a Renewal Application Form.

(5) An amendment application shall include an Application Cover Sheet, and attached thereto an Amendment Request Form.

(6) A special education maximum class size application shall include a Special Education Maximum Class Size Request Form.

(7) A waiver request shall be deemed incomplete if:

(a) The request fails to include all forms required for the waiver request as provided in subsections (3) – (6) of this section;

(b) The forms required for the waiver request as provided in subsections (3) – (6) of this section contain missing or incomplete responses; or

(c) Attachments prescribed within the forms required for the waiver request as provided in subsections (3) – (6) of this section are missing or incomplete.

Section 3. Receipt and Technical Review.

(1) Upon receipt of a waiver request, the department shall:

(a) Notate the date the department received the request;

(b) Assign a number to identify the request;

(c) Notify the Kentucky Board of Education that the waiver request ***will***[~~***should***~~] appear on its next regular meeting for review and decision; and

(d) Perform a technical review of the waiver request as set forth in subsection (2) of this section.

(2) The department shall perform the following technical review for each waiver request received:

(a) Calculate the number of calendar days from the date noted on the waiver request pursuant to subsection (1)(a) of this section and the next regular meeting of the Kentucky Board of Education following that date;

(b) Determine whether the waiver request seeks waiver of any statute or administrative regulation set forth in KRS 156.161(1)(a)-(j); and

(c) Determine whether the waiver request meets the requirements of KRS 156.161(2) and Section 2 of this administrative regulation.

(3) Following the technical review performed pursuant to subsection (2) of this section, the department shall notify the party submitting the waiver request of the following:

(a) The date the department received the waiver request;

(b) The number assigned by the department to identify the waiver request;

(c) The Kentucky Board of Education meeting date when the waiver request will be acted upon;

(d) If the number of calendar days calculated pursuant to subsection (2)(a) of this section is less than forty-five (45), that denial of the waiver request shall be recommended to the Kentucky Board of Education due to insufficient time to conduct a meaningful review of the request, unless the Commissioner determines the waiver request is narrowly tailored to address an emergency situation requiring timely action by the Kentucky Board of Education;

(e) If the waiver request seeks waiver of any statute or administrative regulation set forth in KRS 156.161(1)(a)-(j), that denial of those portions of the request shall be recommended to the Kentucky Board of Education;

(f) If the waiver request does not meet the requirements of KRS 156.161(2) or Section 2 of this administrative regulation, that denial of the request shall be recommended to the Kentucky Board of Education, along with a description of how the request does not meet the requirements of KRS 156.161(2) or Section 2 of this administrative regulation;

(g) Instructions on how the party submitting the waiver request may voluntarily withdraw its request from Kentucky Board of Education review prior to the date set forth in paragraph (c) of this subsection; and

(h) Instructions on how the party submitting the waiver request may request that the Kentucky Board of Education act upon the request on a date different from that set forth in paragraph (c) of this subsection.

(4) Following the notice provided in subsection (3) of this section, the department shall take the following steps in processing the waiver request:

(a) If the waiver request is recommended to the Kentucky Board of Education for denial as set forth in paragraph (d) or (f) of subsection (3) of this section, ***the***[~~***then such***~~] recommendation shall be forwarded to the Kentucky Board of Education and the department shall terminate further review of the waiver request pursuant to this administrative regulation;

(b) If portions of the waiver request are recommended to the Kentucky Board of Education for denial as set forth in paragraph (e) of subsection (3) of this section, ***the***[~~***then such***~~] recommendation shall be forwarded to the Kentucky Board of Education and the department shall terminate further review of those portions of the waiver request pursuant to this administrative regulation; and

(c) Any waiver request, or portion thereof, not recommended for denial to the Kentucky Board of Education as set forth in paragraphs (d) – (f) of subsection (3) of this section shall proceed to substantive review pursuant to Section 4 of this administrative regulation.

Section 4. Substantive Review.

(1) A waiver request, or portion thereof, that proceeds to substantive review pursuant to subsection (4)(c) of Section 3 of this administrative regulation shall be reviewed and recommended by the Commissioner to the Kentucky Board of Education for approval or denial following ***the***[~~***such***~~] review.

(2) In reviewing and evaluating the waiver request for a recommendation pursuant to subsection (1) of this section, the Commissioner shall consider the following factors:

(a) The entirety of the waiver request as set forth in subsections (3) – (6) of Section 2 of this administrative regulation;

(b) Student academic achievement for the past three ***(3)*** full school years for which data is available in the schools and programs identified in the waiver request;

(c) Whether and to what extent the waiver request describes processes the requesting party will utilize to measure success as a result of the waiver, if granted, using data and accountability;

(d) The likelihood of the schools and programs identified in the waiver request realizing meaningful operational efficiency improvements if the waiver is granted;

(e) The likelihood of the students enrolled in the schools and programs identified in the waiver request realizing improved academic achievement if the waiver is granted;

(f) Whether and to what extent the waiver request reasonably anticipates potential adverse impacts on student academic achievement and addresses ***those***[~~***such***~~] potential adverse impacts;

(g) Whether and to what extent the waiver request demonstrates the establishment of high expectations for student learning and evidence based best practices for learning in the schools and programs identified in the request; and

(h) For special education maximum class size applications, any additional factors to be considered pursuant to 707 KAR 1:350 for waiver or exemption of special education maximum class sizes.

(3) Following review and evaluation as provided in subsection (2) of this section, the Commissioner shall recommend approval of a waiver request, or portion thereof, only if he or she finds the requested waiver is more likely than not:

(a) To improve school or program operations without hindering student academic achievement; or

(b) To improve student academic achievement at the school or program.

Section 5. Notification of Kentucky Board of Education Action.

(1) Within ten (10) business days following action by the Kentucky Board of Education on any waiver request, the department shall notify the requesting party of:

(a) The action taken by the Kentucky Board of Education on the waiver request; and

(b) If any portion of the waiver request was granted:

1. The specific statutes or administrative regulations waived;

2. The schools or programs to which the waiver applies;

3. The expiration date of the waiver granted;

4. The process to file a renewal application to avoid expiration of the waiver granted; and

5. The process to file an amendment application to seek future amendments to the waiver granted.

(2) The department shall maintain a list of waiver requests granted by the Kentucky Board of Education. The department shall remove from the list any waivers that are no longer effective due to expiration or termination.

Section 6. Termination of Waiver.

(1) A party to whom a waiver request is granted may request voluntary termination of the waiver by submitting an amendment application using the procedures set forth in Section 2 of this administrative regulation.

(2) The Kentucky Board of Education may terminate a waiver it previously granted as provided in KRS 156.161(9). No less than twenty (20) calendar days prior to a meeting of the Kentucky Board of Education to consider termination of a waiver pursuant to this subsection, the department shall provide written notice to the party to whom the waiver was granted of the following:

(a) That the Kentucky Board of Education will consider termination of a previously granted waiver as provided in KRS 156.161(9);

(b) The Kentucky Board of Education meeting date when [***~~such~~***] consideration and action shall occur;

(c) The reasons for potential termination of the previously granted waiver along with copies of any documents that will be considered by the Kentucky Board of Education as evidence in support of the reasons for potential termination; and

(d) That any written response of the party to whom the waiver was granted, received by the department within fifteen (15) calendar days following the date of the notice, shall be provided to the Kentucky Board of Education for its consideration prior to any action to terminate a previously granted waiver as provided in KRS 156.161(9).

(3) Within five (5) business days following any action by the Kentucky Board of Education pursuant to subsection (2) of this section, the department shall provide written notice to the party granted a waiver subject to termination action of the outcome of the Kentucky Board of Education's action pursuant to KRS 156.161(9).

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application Cover Sheet", **October 2025**[**~~June 2025~~**];

(b) "Specific Waiver Request Form", June 2025;

(c) "Renewal Application Form", June 2025;

(d) "Amendment Request Form", June 2025; and

(e) "Special Education Maximum Class Size Request Form", **October 2025**[**~~June 2025~~**].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Department of Education, 300 Sower Blvd. 5th Floor, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m. eastern time. This material may also be accessed on the Kentucky Department of Education website at: https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

FILED WITH LRC: January 12, 2026

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

EDUCATION AND LABOR CABINET
Board of Education
Department of Education
(As Amended at ARRS, January 12, 2026)

704 KAR 3:406. Superintendent training program and assessment process.

RELATES TO: KRS 156.111, 160.350

STATUTORY AUTHORITY: KRS 156.111

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.111 ***requires***[***~~mandates that~~***] the Kentucky Department of Education ***to*** establish a superintendent training program and assessment center and that the Kentucky Board of Education[~~State Board for Elementary and Secondary Education~~] adopt administrative regulations to govern the training content, number of hours, assessments, and work products[~~written examination, and criteria~~] for successful completion of the training and assessment center process. This administrative regulation establishes the requirements of[~~implements~~] the superintendent training program and assessment center process.

Section 1. Definitions.

(1) "Candidate" means an individual enrolled in the superintendent training and assessment program.

(2) "Comprehensive superintendent assessment" means assessment of a candidate's performance through performance-based projects, portfolios, or capstones which includes a collection of work products demonstrating a candidate's knowledge of each of the topics required in superintendent training modules, and ability to apply that knowledge to efficiently and effectively solve problems as a superintendent.

(3) "Executive coaching and mentoring" means a program whereby:

(a) An individual with experience as a Kentucky public school superintendent is assigned to ***each candidate***[***~~all~~***][***~~candidates~~***] for the purpose of coaching candidates throughout the superintendent training and assessment program on the knowledge and skills necessary to be a successful superintendent; and

(b) A candidate is assigned an individual with experience as a Kentucky public school superintendent for the purpose of mentorship throughout the superintendent training and assessment program.

(4) "Facilitator" means a trained instructor and observer who leads superintendent training modules and specialized professional learning, and records and analyzes candidate performance throughout the comprehensive superintendent assessment.

(5) "Performance-based projects, portfolios, or capstones" means a multifaceted and intellectual experience culminating in a candidate-led demonstration of critical knowledge, skills, and capacities required for success as a superintendent.

(6) "Proficiency on the comprehensive superintendent assessment" means a level of performance on each of the topics required in superintendent training modules that demonstrates a high degree of skill in that particular topic, as determined by an advisory committee.

(7) "Superintendent training and assessment program" means a professional growth and development program which includes:

(a) Superintendent training modules;

(b) Executive coaching and mentoring; and

(c) Comprehensive superintendent assessment.

(8) "Superintendent training modules" means a training program that is no less than forty-two (42) and no more than seventy-two (72) hours in length, providing high-quality instruction delivered by a

facilitator and approved by the Kentucky Department of Education on each of the following topics:

(a) The topics set forth in KRS 156.111(1)(a)-(i); and

(b) Educator ethics.

[(1)] ["Assessee" means an individual who undergoes the assessment process.]

[(2)] ["Assessment center candidate" means a superintendent or applicant for a superintendent position who has been recommended by a local board of education or the Kentucky Department of Education to undergo assessment.]

[(3)] ["Assessor" means a trained observer who records and analyzes assessee performance during an assessment.]

[(4)] ["Assessor training" means training in which participants are taught how to observe and record behaviors displayed by assessment center candidates and are taught to write objective and comprehensive reports.]

[(5)] ["Comprehensive superintendent examination" means a written comprehensive examination over the following subjects:]

[(a)] [Core concepts of management;]

[(b)] [School-based decision making;]

[(c)] [Kentucky school law;]

[(d)] [Kentucky school finance;]

[(e)] [School curriculum and assessment.]

[(6)] ["Final assessment report" means a written report providing the overall performance ratings as well as the performance rating for each skill, and shall include suggestions for improvement and growth, and signatures of all persons involved in the assessment process.]

[(7)] ["Mastery level on the Kentucky Superintendent Comprehensive Examination" means a required level of performance on each of the five (5) components of the Kentucky Superintendent Comprehensive Examination to be determined by an advisory committee to the Kentucky Department of Education based on technical reports secured from field test data obtained during the 1992-93 school year.]

[(8)] ["Screening committee" means the local superintendent search screening committee required by KRS 160.352.]

[(9)] ["Superintendent assessment and training and testing process" means a comprehensive assessment process and training program including assessment of personal administrative skills, training modules in identified skill dimensions and selected concepts related to the position of school superintendent, and a comprehensive examination. Assessment and training are more specifically defined as follows:]

[(a)] ["Assessment process" means a Kentucky Department of Education psychometric procedure emphasizing multiple individual and group simulations representative of the superintendent position which will yield extensive feedback of each assessee's strengths and behaviors in skill dimensions validated as essential for effective performance. The assessment process is used to develop a personal skills profile on candidates seeking employment or employed in superintendent positions.]

[(b)] ["Training program" means a series of training modules designed for the purpose of improving individual skills of superintendent candidates or providing knowledge in the following subjects:]

[1.] [Core concepts of management, up to eighteen (18) hours;]

[2.] [School-based decision making, up to nine (9) hours;]

[3.] [Kentucky school law, up to nine (9) hours;]

[4.] [Kentucky school finance, up to twelve (12) hours;]

[5.] [School curriculum and assessment, up to twenty-four (24) hours.]

[(10)] ["Written assessment report" means a report which provides each assessee with a profile of strengths and behaviors and suggestions to help improve the assessee's skills.]

[(11)] ["Written testing report" means a report which provides each assessee with certification of successful completion of each component of the comprehensive superintendent examination.]

Section 2. Required Completion of Superintendent Training and Assessment Program.

(1) Each person hired for the first time to serve as a superintendent in a Kentucky public school district shall successfully complete the superintendent training and assessment program within two (2) years from the date the person began his or her role as superintendent.

(2) To successfully complete the superintendent training and assessment program, the candidate shall:

(a) Complete all required superintendent training modules unless an exception is granted pursuant to subsection (3) of this section; and

(b) For each of the topics required in the superintendent training modules, demonstrate proficiency on the comprehensive superintendent assessment.

(3) If a candidate possesses past experience that situates the candidate to likely demonstrate proficiency on the comprehensive superintendent assessment for a particular topic prior to completing training on that topic in the superintendent training modules, the candidate may request an exception from participating in that particular training topic within the superintendent training modules. If [***such***]an exception is granted, the total superintendent training modules hours required for the candidate shall not be reduced. The candidate shall obtain additional training in alternative topics within the superintendent training modules equal to the hours of the training topic for which an exception is granted, which may include specialized additional training provided by a facilitator.

(4) If the candidate fails to demonstrate proficiency on the comprehensive superintendent assessment, the candidate may request to repeat the superintendent training modules and comprehensive superintendent assessment for ***the***[***those***] topics in which he or she failed to demonstrate proficiency. A candidate who repeats the superintendent training modules and comprehensive superintendent assessment for ***the***[***those***] topics in which he or she failed to demonstrate proficiency shall do so within two (2) years from the date the candidate began his or her role as superintendent.

[(1)] [The Superintendent Training and Assessment Center shall be responsible for the assessment of superintendents and superintendent applicants, provide assessor training, provide training using Kentucky Department of Education approved modules, and serve as the site for the administration of the comprehensive superintendent examination.]

[(2)]

[(a)] [The center staff shall coordinate assessments and trainings, maintain all records, make provisions for the necessary reporting of training and assessment status as to all superintendents, and report the status of all superintendent candidates to the chairperson of the local board of education.]

[(b)] [The report shall:]

[1.] [Be sent at the conclusion of participation in the training, testing, and assessment process;]

[2.] [Include a copy to the participating superintendent;]

[3.] [Specify whether the participating superintendent successfully completed the training, testing, and assessment process.]

[(c)] [A report shall be made to the assessee, the Office of Teacher Education and Certification, and the local board of education chairperson on any person serving in the position of superintendent, who does not complete the assessment and successfully complete the comprehensive superintendent examination within the applicable deadlines set forth in KRS 156.111 and 160.350.]

Section 3. Enrollment and Recordkeeping.

(1) Candidates shall be enrolled in the superintendent training and assessment program with the following enrollment preference:

(a) [***Those***] Individuals hired for the first time to serve as a superintendent in a Kentucky public school district shall be guaranteed enrollment;

(b) If enrollment capacity remains after enrolling ***the***[***those***] candidates described in paragraph (a) ***of this subsection***, then those individuals who are a candidate for superintendency, but not yet employed as a superintendent may be enrolled on a first come, first served basis; and

(c) If enrollment capacity remains after enrolling ***the***[***those***]candidates described in paragraph (b), then those individuals who are neither employed as a superintendent, nor a

candidate for superintendency, may request enrollment at the candidate's expense.

(2) Upon enrollment, a candidate shall be required to sign an oath which pledges nondisclosure of the comprehensive superintendent assessment.

(3) A roster of enrolled candidates shall be maintained by the program administrator. The roster shall include:

(a) Each candidate's name;

(b) The school district where the candidate is employed as superintendent, if applicable;

(c) The date the candidate was first employed as a superintendent in a Kentucky public school district;

(d) The date by which the candidate ***shall*** [~~***must***~~] complete the superintendent training and assessment program pursuant to subsection (1) of Section 2 of this administrative regulation;

(e) The candidate's assigned mentor; and

(f) The candidate's progress in completing the superintendent training modules.

(4) Upon enrollment of a candidate, the program administrator shall:

(a) Send written notification of the candidate's enrollment in the program to the candidate, the Kentucky Department of Education, and the board chair for the public school district where the candidate is employed as superintendent, if applicable;

(b) Assign the candidate a mentor for executive coaching and mentoring, and provide written notification of this assignment to the candidate and the mentor; and

(c) Send written notification to the candidate that includes:

1. Program requirements and expectations;

2. The schedule of superintendent training modules the candidate ***shall*** [~~***must***~~] complete; and

3. A general description of the required comprehensive superintendent assessment, including how the candidate's proficiency on the comprehensive superintendent assessment will be judged.

(5) A candidate enrolled pursuant to paragraphs (b) or (c) of subsection (1) of this section shall provide immediate notice to the program administrator if the candidate is hired as a superintendent in a Kentucky public school district while enrolled in the superintendent training and assessment program. Upon receipt of [***such***] notice, the program administrator shall update the roster set forth in subsection (3) of this section accordingly, and provide written notice to the board chair consistent with paragraph (a) of subsection (4) of this section.

(6) Upon completion of the superintendent training and assessment program, the program administrator shall send a final written report for each candidate to the candidate, the Kentucky Department of Education, and the board chair for the public school district where the candidate is employed as superintendent, if applicable, containing the following information:

(a) Each topic completed within the superintendent training modules, including the hours completed for each topic and total hours completed within the superintendent training modules;

(b) Any topics not completed by the candidate within the superintendent training modules;

(c) For each of the topics required in the superintendent training modules, whether or not the candidate demonstrated proficiency on the comprehensive superintendent assessment; and

(d) A statement as to whether or not the candidate successfully completed the superintendent training and assessment program as set forth in subsection (2) of Section 2 of this administrative regulation.

(7) Upon completion of the superintendent training and assessment program, the program administrator shall:

(a) Administer a comprehensive survey to candidates who completed the program which gathers feedback from candidates on:

1. The quality, rigor, and value of the superintendent training and assessment program;

2. The time commitments of the superintendent training and assessment program;

3. The knowledge, skills, and expertise of facilitators;

4. The helpfulness of the candidate's assigned mentor throughout the superintendent training and assessment program; and

5. Candidate recommendations for topics that should be covered in greater detail throughout the superintendent training and assessment program; and

(b) Provide the aggregate results of each survey question to the Kentucky Department of Education.

[~~(1)~~] [~~The following requirements shall apply to a person hired for the first time as a superintendent in Kentucky after July 1, 1992 and before July 1, 1994:~~]

[~~(a)~~] [~~Superintendents who complete the assessment phase and demonstrate mastery on the Kentucky Superintendent Comprehensive Exam shall be certified as having met the requirements of KRS 156.111.~~]

[~~(b)~~] [~~A superintendent who does not demonstrate mastery on any one (1) of the components of the Kentucky Superintendent Comprehensive Exam shall be eligible to participate in a second training of the appropriate module(s) of the training program prior to retaking the comprehensive examination or shall retake the comprehensive examination on the next scheduled date of the examination.~~]

[~~(2)~~] [~~Persons employed as superintendent in Kentucky prior to July 1, 1992, may elect to not participate in any, or all, of the modules of the training phase and take the appropriate components of the comprehensive examination.~~]

[~~(a)~~] [~~Superintendents who complete the assessment phase and demonstrate mastery on the Kentucky Superintendent Comprehensive Exam shall be certified as having met the requirements of KRS 156.111.~~]

[~~(b)~~] [~~Superintendents who do not demonstrate mastery on the Kentucky Superintendent Comprehensive Exam shall be eligible to participate in further training in corresponding module(s) as a requirement for eligibility to repeating the comprehensive examination.~~]

[~~(3)~~] [~~A person hired for the first time as a superintendent in Kentucky after June 30, 1994, shall have one (1) year from the time of employment to successfully complete the assessment and training and testing program described in subsection (1)(a) and (b) of this section.~~]

Section 4. Facilitator Selection and Training.

(1) A facilitator shall possess at least five (5) years of practice experience in the topic the facilitator is assigned to lead or provide specialized professional learning within the superintendent training modules.

(2) Prior to evaluating whether or not a candidate demonstrates proficiency on the comprehensive superintendent assessment, a facilitator shall undergo training on:

(a) The requirements of this administrative regulation;

(b) Proficiency, as determined by an advisory committee, on each of the topics required in superintendent training modules;

(c) How to observe and record behaviors and performance of candidates; and

(d) How to write objective and comprehensive reports regarding candidate performance on the comprehensive superintendent assessment.

[~~(1)~~] [~~The Superintendent Training and Assessment Center director shall allocate training and assessment center slots, considering factors to assure diversity and equal access. Local school districts with actual or imminent superintendent vacancies shall be given priority in the assignment of training and assessment center slots.~~]

[~~(2)~~] [~~Each assessee, upon completion of the superintendent assessment center process, shall receive a final assessment report. Superintendents and superintendent candidates shall complete the requirements for training and assessment and achieve the designated mastery level on each of the modules of the Kentucky Superintendent Comprehensive Examination to successfully complete the training and testing and assessment.~~]

[~~(3)~~] [~~Upon completion of the assessment and successful completion of testing by superintendent candidates, the Superintendent Training and Assessment Center staff shall provide~~

~~the Office of Teacher Education and Certification and the chairperson of the appropriate local board of education a written report confirming completion of the assessment and successful completion of testing.~~]

[~~(4)~~] [~~Persons desiring to be assessed as superintendent, but who are not employed as a superintendent or are not candidates for superintendency at the time, may have requests granted by the Superintendent Training and Assessment Center director at the candidate's expense.~~]

[~~(5)~~] [~~Prior to assessment, an assessment center candidate shall be required to sign an oath which pledges nondisclosure of the assessment center process and materials.~~]

Section 5. Complaints. Complaints regarding failure to comply with statutory and regulatory provisions of the Superintendent Training and Assessment Program shall be directed to and evaluated by the Kentucky Department of Education.

[~~(1)~~] [~~The Superintendent Training and Assessment Center staff shall maintain all assessment center reports.~~]

[~~(2)~~] [~~The security of training and testing and assessment data shall be maintained by the Superintendent Training and Assessment Center staff. Each written report shall be the property of the Kentucky Department of Education. Individual profile reports shall be disseminated by the Superintendent Training and Assessment Center staff only after written authorization has been given by the assessee.~~]

[~~(3)~~] [~~All complete written training and assessment center reports shall be retained in confidential Superintendent Training and Assessment Center files. Working documents used by the assessment or training team to formulate each report shall be discarded after three (3) years.~~]

[~~Section 6.~~] [~~The Kentucky Department of Education may pay a stipend for each assessment performed by an assessor and for services necessary to conduct training and testing as needed.~~]

[~~Section 7.~~] [~~Complaints regarding failure to comply with statutory and regulatory provisions of the Superintendent Training and Assessment Program shall be directed to and evaluated by the Kentucky Department of Education.~~]

Section 6.[~~Section 8.~~] Continuing Education for Superintendents.

(1) Following successful completion of the superintendent assessment and training program, annual continuing[~~Continuing~~] education for superintendents shall include:

[~~(a)~~] [~~Participation in forty-two (42) hours of Kentucky Department of Education approved training over twenty-four (24) months; or~~]

[~~(b)~~] Completion of an annual individual personal growth training plan of at least twenty-one (21) hours of instruction which shall include:

(a) Three (3) hours of annual training in school finance; and

(b) Three (3) hours of annual training in ethics.

(2) Completion of continuing education of the superintendent shall be reported to the Kentucky Department of Education. The Kentucky Department of Education shall annually notify the local board of education chairperson of the status of the school district's superintendent's continuing education.

(3) Failure to comply with the requirements of this administrative regulation shall result in referral of the matter to the Education Professional Standards Board for consideration of revocation of the superintendent certificate.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

FILED WITH LRC: January 12, 2026

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

Agricultural Experiment Station
(Amended After Comments)

12 KAR 3:012. Label format and labeling.

RELATES TO: KRS 250.501, 250.521, 15 U.S.C. 1451-1461
STATUTORY AUTHORITY: KRS 250.521(2)(e), (f), 250.571
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631. KRS 250.521 requires that pet foods be labeled and establishes the information that shall be stated on the label. This administrative regulation establishes a uniform format for labeling information for pet foods and specialty pet foods and delineates criteria for product claims.

Section 1. Definitions.
(1) "All life stages" means gestation or lactation, growth, and adult maintenance life stages for dogs, cats, and other mammals or adult (including breeding animals) and juvenile life stages for non-mammalian species.
(2) "Daily Food" means a specialty pet food product, other than a treat, food mixer or food supplement, for specialty pet species with no recognized nutritional authority.
(3) "Family" means a group of products that are nutritionally adequate for any or all life stages based on the products nutritional similarity to a lead product that has been successfully test-fed according to an AAFCO feeding protocol.
(4) "Familiar Household Unit" means a typical feeding unit in volume or count (e.g., can, measuring cup, treat, or piece.
(5) "Food Mixer" means a pet or specialty pet food product that is intended to top, accompany, or contribute to a complete diet but is not generally intended to be complete diet.
(6) "Food Supplement" means a pet or specialty pet food product that is intended to supply specific nutrient(s) or other food component but is not a complete diet.
(7) "Immediate container":
(a) Means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers; and
(b) Does not mean containers used as shipping containers.
(8) "Ingredient statement[~~statements~~]" means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.
(9) "Pet Nutrition Facts" means a graphic box located on the label containing nutritional information for a pet food product.
(10) "Principal display panel" means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.
(11) "Specialty Pet Nutrition Facts" means a graphic box located on the label containing nutritional information for a specialty pet food product.
(12) "Veterinary Diet" means a pet or specialty pet food product that is intended to be used under veterinary supervision only
(13) Unless a pet food and specialty pet food is identified on the principal display panel as a stew, gravy, sauce, broth, aspic, juice, milk replacer, or other such name, the maximum moisture declared on a pet food or specialty pet food label shall not exceed 78.00% or the natural moisture content of the ingredients, whichever is higher.

Section 2.[~~**Section 1.**~~] Pet food and specialty pet food shall be labeled with:
(1) Product name and brand name, if any, on the principal display panel as established in 12 KAR 3:017;
(2) A statement **that includes**[~~**specifying**~~] the species name of pet or specialty pet for which the food is intended, conspicuously designated on the principal display panel;
(3) "Quantity statement", as defined by KRS 250.501(22) and as established in 12 KAR 2:011, Section 1(9), by weight (pounds and ounces, and metric), liquid measure (quarts, pints, and fluid ounces, and metric) or by count, on the principal display panel;
(4) Guaranteed analysis as established in 12 KAR 3:022;
(5) Ingredient statement as established in 12 KAR 3:027;
(6) A statement of nutritional adequacy or purpose if required pursuant to 12 KAR 3:039;
(7) A statement of calorie content if required pursuant to 12 KAR 3:042;
(8) Feeding directions if required pursuant to 12 KAR 3:032; and
(9) Name and address of the manufacturer or distributor as established in Sections 10 and 11 of this administrative regulation.

Section 3.[~~**Section 2.**~~] If a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

Section 4.[~~**Section 3.**~~] A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.

Section 5.[~~**Section 4.**~~] The word "proven," in connection with a label claim for a pet food or specialty pet food, shall not be used unless the claim is substantiated by scientific or other empirical evidence.

Section 6.[~~**Section 5.**~~] A statement shall not appear upon the label or labeling of a pet food or specialty pet food that makes false or misleading comparisons between that product and any other product.

Section 7.[~~**Section 6.**~~] A personal or commercial endorsement may be used on a pet food or specialty pet food label if the endorsement is not false or misleading.

Section 8.[~~**Section 7.**~~] A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation shall be substantiated and limited to six (6) months of production.

Section 9.[~~**Section 8.**~~] A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.

Section 10.[~~**Section 9.**~~]
(1) Raw milk distributed as pet food or specialty pet food shall bear the following statement "WARNING: NOT FOR HUMAN CONSUMPTION – THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA."
(2) This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the federal Fair Packaging and Labeling Act 15 U.S.C. 1451-1461, for the quantity statement as shown in the following table:

Panel Size	Minimum Warning Statement Type Size
≤5 in.^{2}	1/16 in.
>5-≤25 in.^{2}	1/8 in.
>25-≤100in.^{2}	3/16 in.
>100-≤400in.^{2}	1/4 in.
>400 in.^{2}	1/2 in.

Section 11.[~~**Section 10.**~~] The label of a pet food or specialty pet food shall specify the business or corporate name and address of the manufacturer or distributor. This information shall appear under the header "Manufactured for ", or "Distributed by ", or any other wording that expresses the facts, if the business whose name appears on the label is not the manufacturer.

(1) Except as established in subsection (2) of this section, the statement of the place of business shall include the street address, city, state, and zip code.

(2) The street address may be omitted if the street address is shown in a readily accessible, widely published, and publicly available resource, including **for example,** [~~**but not limited to**~~]a printed[~~current city~~] directory, electronic database, or website[~~or telephone directory for the city listed on the label~~]**,**[**.**]current city directory or telephone directory for the city listed on the label.

Section 12.[~~**Section 11.**~~] If a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of the pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.[~~**Section 12. Incorporation by Reference.**~~]

[~~**(1)**~~] [~~**"20232018Official Publication", (20232018 Edition), Association of American Feed Control Officials, is incorporated by reference.**~~]

[~~**(2)**~~] [~~**This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.**~~]

Section 13. Pet food and specialty pet food shall be labeled with:

(1) Product name and brand name, if any, on the principal display panel as established in 12 KAR 3:017;

(2) A statement specifying the intended use of the products as established in 12 KAR 3:017;

(3) "Quantity statement", as defined by KRS 250.501(22) and as established in 12 KAR 2:011, Section 1(9), by weight (pounds and ounces, and metric), liquid measure (quarts, pints, and fluid ounces, and metric) or by count, on the principal display panel;

(4) Pet Nutrition Fact or Specialty Pet Nutrition Facts as established in 12 KAR 3:022;

(5) Ingredient statement as established in 12 KAR 3:027;

(6) Feeding directions as[~~if~~] required pursuant to 12 KAR 3:032; and

(7) Name and address of the manufacturer or distributor as established in Sections 10 and 11 of this administrative regulation.

Section 14. If a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

Section 15. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.

Section 16. The word "proven," in connection with a label claim for a pet food or specialty pet food, shall not be used unless the claim is substantiated by scientific or other empirical evidence.

Section 17. A statement shall not appear upon the label or labeling of a pet food or specialty pet food that makes false or misleading comparisons between that product and any other product.

Section 18. A personal or commercial endorsement may be used on a pet food or specialty pet food label if the endorsement is not false or misleading.

Section 19. A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation shall be substantiated and limited to six (6) months of production.

Section 20. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.

Section 21.

(1) Raw milk distributed as pet food or specialty pet food shall bear the following statement "WARNING: NOT FOR HUMAN CONSUMPTION – THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA."

(2) This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the federal Fair Packaging and Labeling Act 15 U.S.C. 1451-1461, for the quantity statement as shown in the following table:

Panel Size	Minimum Warning Statement Type Size
≤5 in.^{2}	1/16 in.
>5-≤25 in.^{2}	1/8 in.
>25-≤100in.^{2}	3/16 in.
>100-≤400in.^{2}	1/4 in.
>400 in.^{2}	1/2 in.

Section 22. The label of a pet food or specialty pet food shall specify the business or corporate name and address of the manufacturer or distributor. This information shall appear under the header "Manufactured for ", or "Distributed by ", or any other wording that expresses the facts, if the business whose name appears on the label is not the manufacturer.

(1) Except as established in subsection (2) of this section, the statement of the place of business shall include the street address, city, state, and zip code.

(2) The street address may be omitted if the street address is shown in a readily accessible, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or website.

Section 23. If a person manufactures, packs, or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of the pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

Section 24. Incorporation by Reference.

(1) "Official Publication", (2025 Edition), Association of American Feed Control Officials, is incorporated by reference for Sections 1 and 13 through 23.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

DR. JAMES MATTHEWS, Director of Agricultural Experiment Station

APPROVED BY AGENCY: January 13, 2026

FILED WITH LRC: January 15, 2026 at 10:00 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison

Subject Headings: Agriculture, Animals: Livestock and Poultry, Equine and Horses, Consumer Protection

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a uniform format for labeling information for

pet foods and specialty pet foods and delineates criteria for product claims.
(b) The necessity of this administrative regulation: Establishes uniform labeling of pet foods to better allow consumers to evaluate products.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Establishes uniformity in labeling of pet foods and specialty pet foods.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This regulation was last updated in 1999. These changes bring it up to accepted standards in labeling that are currently used and conform to the industry standard prescribed by the American Association of Feed Control Officials (AAFCO). This is a standard used by the industry.
(b) The necessity of the amendment to this administrative regulation: Updates label format to meet the new requirements of Pet Food Label Modernization (PFLM).
(c) How the amendment conforms to the content of the authorizing statutes: Updates the existing regulation.
(d) How the amendment will assist in the effective administration of the statutes: Modernizes labeling standards.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Transition to new PFLM label format by 2030.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There may be some increased cost as industry moves from one label format to another. By allowing a transition period before PFLM changes must occur, the industry can make these changes as products are updated.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The pet food industry was represented in the development of PFLM and supports the changes.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No increased costs.
(b) On a continuing basis: No increased costs.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Annual budget of the Division of Regulatory Services
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571(1)
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers of animal feed.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. This administrative regulation aligns with FMSA, creating harmony between state and federal standards.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

Agricultural Experiment Station
(Amended After Comments)

12 KAR 3:022. Expression of guarantees.

RELATES TO: KRS 250.501, 250.521
STATUTORY AUTHORITY: KRS 250.521(1)(b), 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 259.491 to 250.631. KRS 250.521(1)(b) requires that a commercial feed label contain a guaranteed analysis that advises the purchaser of the composition of the feed or to support claims made in the labeling. This administrative regulation establishes a uniform format for expressing guarantees for pet foods and specialty pet foods.

Section 1. The "Guaranteed Analysis" shall be listed in the following order and format unless otherwise established in 12 KAR Chapter 3:
(1) A pet food or specialty pet food label shall list the following required guarantees;
(a) Minimum percentage of crude protein;
(b) Minimum percentage of crude fat;
(c) Maximum percentage of crude fat, if required by 12 KAR 3:028;
(d) Maximum percentage of crude fiber;
(e) Maximum percentage of moisture; and
(f) Additional guarantees, if applicable, shall follow moisture;
(2) If ash is listed in the guaranteed analysis on a pet food or specialty pet food label, ash shall be guaranteed as a maximum percentage and shall immediately follow moisture;
(3) If listed on the label of a dog or cat food product, guarantees for dietary starch and sugars shall be stated as maximum percentages. Neither guarantee shall be listed without the other. The guarantee for dietary starch shall follow ash, if also listed, or moisture, if ash is not listed. The guarantee for sugars shall follow dietary starch;
(4) A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the **Association of American Feed Control Officials (AAFCO), incorporated by reference in 12 KAR 3:012,**[~~AAFCO~~] Dog (or Cat) Food Nutrient Profiles. Guarantees for substances not listed in the AAFCO Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in 12 KAR Chapter 3, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer "not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles." The disclaimer shall appear immediately after the last guarantee in the same size type as the guarantees; and
(5)
(a) Except as established in paragraph (b) of this subsection, a specialty pet food label shall list other required or voluntary guarantees in the same order and units for the nutrients in an AAFCO-recognized nutrient profile for the specific species.
(b) If no species-specific AAFCO-recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the AAFCO Cat Food Nutrient Profile.
(c)[~~(c)~~] Guarantees for substances not listed in an AAFCO recognized nutrient profile for the specific species of animal shall immediately follow the listing of recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer "not recognized as an essential nutrient by the _____." The blank shall be completed by listing the specific AAFCO recognized nutrient profile. This disclaimer shall appear immediately after the last guarantee in the same size type as the guarantees. The disclaimer shall not be required unless an AAFCO-recognized nutrient profile is available for the specific species of specialty pet.

Section 2. The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, "Minimum crude protein 15-18%") shall not be used.

Section 3. The label of a pet food or a specialty pet food that is formulated as and represented to be a mineral supplement shall include:
(1)
(a) Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed as the element in units **stated**[~~**specified**~~] in the nutrient profile; or
(b) Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units **stated**[~~**specified**~~] in the AAFCO Cat Food Nutrient Profiles if **a**[~~**no**~~] species-specific nutrient profile has not been recognized by AAFCO;
(2) Mineral guarantees required by subsection (1) of this section **shall**[~~**may**~~] be expressed in milligrams (mg) per unit (**for example**[~~**e.g.**~~], tablets, capsules, granules, or liquids) consistent with those **stated**[~~**employed**~~] in the quantity statement and directions for use; and
(3) A weight equivalent (**for example**[~~**e.g.**~~], 1 fl. oz. = 28 grams) for liquid products.

Section 4. The label of a pet food or a specialty pet food that is formulated as and represented to be a vitamin supplement shall include:
(1)
(a) Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed in units specified in the nutrient profile; or
(b) Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in the AAFCO Cat Food Nutrient Profiles if no species-specific nutrient profile has been recognized by AAFCO;
(2) Vitamin guarantees required by subsection (1) of this section may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
(3) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.

Section 5. If the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile, such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following shall apply:
(1) The product shall meet the AAFCO-recognized nutrient profile;
(2)
(a) Except as established in paragraph (b) of this subsection, the statement of comparison shall be preceded by a statement that the product meets the AAFCO-recognized profile.
(b) The statement that the product meets the AAFCO-recognized nutrient profile shall not be required if the nutritional adequacy statement as per 12 KAR 3:039, Section 1(1) or Section 2(2)(a) appears elsewhere on the product label;
(3) The statement of comparison of the nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and
(4) The statement of comparison may appear on the label separate and apart from the guaranteed analysis.

Section 6.
(1) Except as established in subsection (2) of this section, the maximum moisture declared on a pet food or specialty pet food label shall not exceed seventy-eight (78) percent or the natural moisture content of the ingredients, whichever is higher.
(2) Pet food and specialty pet food such as those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and that are so labeled, may contain moisture in excess of seventy-eight (78) percent.

Section 7. Guarantees for crude protein, crude fat, and crude fiber shall not be required if the pet food or specialty pet food is intended for purposes other than to **provide**[~~furnish~~] these substances or if **these substances**[~~they~~] are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.

Section 8. Guarantees for microorganisms and enzymes shall be stated in the format as established in 12 KAR 2:021, Sections 7 and 8.

Section 9. Regulations in Sections 1 through 8 shall remain in effect until June 30, 2030.

Section 10. Pet Nutrition Facts shall be displayed in a prominent place on the label of all pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading "Pet Nutrition Facts" that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate "Pet Nutrition Facts" from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) The stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) A statement of Calorie content, determined as specified in KAR 12 3:042, shall include the following:

(a) The Calorie content of the product shall be stated after the left justified heading:

1. "Calories per familiar household unit" when the Calorie content is determined in accordance with KAR 12 3:042 Section 1(1); or

2. "Calories per familiar household unit" when the Calorie content is determined in accordance with KAR 12 3:042 Section 1(2).

(b) Below the Calorie content statement, the number of Calories contributed by Protein, Fat, and Carbohydrate shall be declared, in that order, after "From:". The "From:" line shall be indented to reflect that it is a component of the total Calories on the line above. If the total Calorie content of the product is determined by feeding trial in accordance with KAR 12 3:042 Section 1(2), then ME (kcal/kg) shall be declared immediately after the number of Calories from Carbohydrates. The determination of Calories from protein, fat, and carbohydrate are as described in KAR 12 3:042 Section 1(2). This is set off by a bold line centered between this and the next line of text.

(3) The nutrient guarantees shall appear under the headers "Nutrients" that is left justified to the edge of the box, "Guaranteed" that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient value, and "per [familiar household unit]" that is right justified to the edge of the box. The amount "per [familiar household unit]" for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(a) A pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

1. "Protein" is minimum percentage of crude protein;

2. "Fat" is minimum percentage of crude fat;

3. "Total Carbohydrate†" is maximum percentage equal to [100 – (Crude Protein + Crude Fat + Moisture + Ash)];

4. "Dietary Fiber" is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above;

5. "Moisture" is maximum percentage of moisture; and

6. Maximum percentage of crude fat ("Fat") shall be listed between the minimum percentage of crude fat and the maximum percentage "Total Carbohydrate" if required by KAR 12 3:042;

7. Additional required or voluntary guarantees shall follow moisture or ash, if listed.

(b) When "Ash" is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(c) When listed on the label of a dog or cat food product, guarantees for "Dietary Starch" and "Sugars" shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.

(d) The "calculated value" shall appear immediately after the last guarantee below a bold line.

(e) Other additional required or voluntary guarantees shall appear in accordance with the following:

1. Guarantees for nutrients are in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles following ash, if also listed, or moisture, if ash is not listed.

2. Guarantees for substances not listed in the AAFCO Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.

a. For any such guarantees, a hairline shall be centered between the last and the next line of text;

b. The disclaimer "*not recognized as an essential nutrient by the AAFCO Dog [or Cat] Food Nutrient Profiles" shall appear immediately after "†calculated value".

(f) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the disclaimers which follow the guarantees:

1. A statement that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. It shall be stated verbatim as one of the following:

a. "(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for ." (Blank is to be completed by using the stage or stages of the pet's life, such as gestation/ lactation, growth, maintenance, or the words "All Life Stages".) For a dog food, when the blank includes the words "Growth" or "All Life Stages," one of the following phrases must also be added verbatim to the end of the claim:

i. "including growth of large size dogs (70 lb. or more as an adult)" if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs.

ii. "except for growth of large size dogs (70 lb. or more as an adult)" if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs; or

b. "Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for" (Blank is to be completed by using the stage or stages of the pet's life tested, such as, gestation/lactation, growth, maintenance, or the words "All Life Stages"); or

c. "(Name of Product) provides complete and balanced nutrition for (Blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance, or the words "All Life Stages") and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests."

2. A nutritional or dietary statement for purposes other than those listed in 12 KAR 3:039 Section 2 and Section 3 if the statement is scientifically substantiated; or

3. The statement: "This product is intended for intermittent or supplemental feeding only," if a product does not meet the requirements of 12 KAR 3:039 Section 2 or Section 3 or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

Section 11. Specialty Pet Nutrition Facts shall be displayed in a prominent place on the label of all specialty pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading "Specialty Pet Nutrition Facts" that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate "Specialty Pet Nutrition Facts" from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) The stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) The nutrient guarantees shall appear under the headers "Nutrients" that is left justified to the edge of the box, "Guaranteed" that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient values, and "per [familiar household unit]" that is right justified to the edge of the box. The amount "per [familiar household unit]" for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(a) A specialty pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

1. "Protein" is minimum percentage of crude protein;

2. "Fat" is minimum percentage of crude fat;

3. "Total Carbohydrate†" is maximum percentage equal to [100 – (Crude Protein + Crude Fat + Moisture + Ash)];

4. "Dietary Fiber" is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above; and

5. "Moisture" is maximum percentage of moisture;

6. Additional required or voluntary guarantees shall follow moisture or ash, if listed.

(b) When "Ash" is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(c) When listed on the label of a specialty pet food product, guarantees for "Dietary Starch" and "Sugars" shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.

(d) The "†calculated value" shall appear immediately after the last guarantee below a bold line.

(e) Other additional required or voluntary guarantees shall appear in accordance with the following:

1. These guarantees shall follow ash, if also listed, or moisture, if ash is not listed;

2. Guarantees for nutrients are in the same order and units of the nutrients in an AAFCO-recognized nutrient profile for the intended animal species; however, if no species-specific AAFCO-recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the AAFCO Cat Food Nutrient Profile;

3. For those specialty pet species with an AAFCO-recognized nutrient profile for the intended animal species, guarantees for substances not listed in that profile, or not otherwise provided for in these regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.

a. For any such guarantees, a hairline shall be centered between the last and the next line of text;

b. The disclaimer "*not recognized as an essential nutrient by the" (Blank is to be completed by listing the specific AAFCO-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts.

c. No such disclaimer shall appear unless an AAFCO-recognized nutrient profile is available for the specific species of specialty pet.

(f) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the guarantees as one of the following:

1. For daily foods for those specialty pet species where no recognized nutritional authority exists, the statement: "This product is intended to be a daily food."

2. For all other specialty pet foods:

a. A statement substantiating that the specialty pet food meets the requirements for nutritional adequacy in 12 KAR 3.039, Section 2 or 3 by an AAFCO-recognized nutritional authority. It shall be stated verbatim as the following: "(Name of product) is formulated to meet the nutritional levels established by (the AAFCO-recognized authority for)." (Blank is to be completed by stating the species and the stage or stages of the specialty pet's life.);

b. A nutritional or dietary claim for purposes other than those listed in 12 KAR 3.039, Section 2 or 3 if the claim is scientifically substantiated; or

c. The statement: "This product is intended for intermittent or supplemental feeding only," if a product is suitable only for limited or intermittent or supplementary feeding.

Section 12. The Pet Nutrition Facts or Specialty Pet Nutrition Facts box of a pet food or a specialty pet food which is formulated as and represented to be a food supplement shall include all of the information required in Section 1 or 2 of this regulation except that guarantees shall only be displayed on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis:

(1) For a food supplement that is intended to be a source of nutrients, guarantees shall appear for all nutrients that the product is intended to provide under the headers "Nutrients" that is left justified to the edge of the box and "per (feeding unit)" that is right justified to the edge of the box:

(a) For nutrients with an established requirement by an AAFCO- recognized nutrient profile, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the AAFCO- recognized nutrient profile for the intended species; or

(b) When no species-specific nutrient profile has been recognized by AAFCO, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the AAFCO Cat Food Nutrient Profiles; and

(c) Guarantees for substances not listed in an AAFCO-recognized nutrient profile for the intended animal species, or not otherwise provided for in these regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.

1. For any such guarantees, a hairline shall be centered between the last and the next line of text;

2. The disclaimer "*not recognized as an essential nutrient by the" (Blank is to be completed by listing the specific AAFCO-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts. No such disclaimer shall appear unless an AAFCO-recognized nutrient profile is available for the specific species of specialty pet.

(2) For a food supplement that is intended to supply microorganisms and/or enzymes, guarantees shall be declared as stipulated in 12 KAR 3.039, Section 7 or 8 on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis. The enzyme activity unit meaning should follow the disclaimer within the box.

Section 13. The sliding scale method of expressing a guaranteed amount on a pet food or specialty pet food label (for example, "Protein 15–18% Min") is prohibited.

Section 14. Protein, fat, calculated total carbohydrate, or dietary fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.

Section 15. For small packages with a total printable area of more than 12 square inches and less than or equal to 40 square inches, all information required in Section 1, 2, or 3 of this regulation shall appear, but may appear in a linear format. This information shall appear in one place without other intervening material. In the linear format, the required information shall:

(1) Appear in the same order as required by Section 1, 2, or 3 of this regulation but without the formatting described;

(2) Text shall be all black or one-color type and all text shall be the same size and style, except that the heading "Pet Nutrition Facts" or "Specialty Pet Nutrition Facts" shall be bolded;

(3) The text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;

(4) The guaranteed amount shall appear immediately after the amount "per [familiar household unit]" for each nutrient with the guaranteed amount enclosed in parentheses and all units clearly identified;

(5) The following abbreviations may be used: Total Carbohydrate as "Carb†," Dietary Fiber as "Fiber".

Section 16. For very small packages with a total printable area of less than or equal to 12 square inches, the information required elsewhere in this regulation is not required to appear on the label. However, all information specified elsewhere in this regulation for the particular product type shall be determined and shall be submitted to the [regulatory authority] upon request. The following limited information is required to appear on the label:

(1) This information shall appear in one place without other intervening material;

(2) Text shall be all black or one-color type and all text shall be the same size and style, except that the heading "Nutrition Facts" shall be bolded;

(3) The text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;

(4) For pet foods, only total calories are required and shall be stated as:

(a) "Cal (calc): [#]"when the Calorie content is determined in accordance with 12 KAR 3.042, Section 1(1); or

(b) "Cal (fed): [#]"when the Calorie content is determined in accordance with 12 KAR 3.042, Section 1(2).

(5) Guaranteed amounts shall be stated in weight per entire contents (e.g., grams per pouch). The following required guaranteed amounts stated as a maximum or minimum, as appropriate:

(a) "Protein" is crude protein;

(b) "Fat" is crude fat;

(c) "Carb" is calculated from [100 – (% Crude Protein + % Crude Fat +

(d) % Moisture + % Ash)];

(e) "Fiber" is total dietary fiber;

(f) "Moisture" is moisture; and

(g) Additional required or voluntary guarantees shall follow moisture or ash, if listed, and shall comply with the requirements for such guarantees in Section 1(3) or Section 2(2) of this regulation, as appropriate, except that they shall be stated in only in weight per entire contents.

[~~Section 9.~~] [~~Incorporation by Reference.~~]

[~~(1)~~] [~~"2023 Official Publication," (2023[2018] Edition), Association of American Feed Control Officials, is incorporated by reference.~~]

[~~(2)~~] [~~This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.~~]

DR. JAMES MATTHEWS, Director of Agricultural Experiment Station
APPROVED BY AGENCY: January 13, 2026
FILED WITH LRC: January 15, 2026 at 10:00 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a uniform format for expressing guarantees for pet foods and specialty pet foods.
(b) The necessity of this administrative regulation: Specifies for pet food and specialty pet food manufacturers the nutrient guarantees they are to place on their product labeling under new Pet Food Label Modernization (PFLM). The goal of PLFM is to provide consumers with more useful information when determining which product meets the needs of their pet.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Established standardized labeling of nutrient guarantees on pet and specialty pet food products.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2025 edition.
(b) The necessity of the amendment to this administrative regulation: This change provides more information to the consumer and more uniformity in guarantees required for the manufacturer selling pet and specialty pet food products in multiple states.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. Manufacturers that label pet food (guarantors) will be required to move to the new label format by 2030.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There may be some increased cost as industry moves from one label format to another. By allowing a transition period before PFLM changes must occur, the industry can make these changes as products are updated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products, more descriptive ingredient definitions, and label formats supported by the industry.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21.
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA.

AGRICULTURAL EXPERIMENT STATION
(Amended After Comments)

12 KAR 3:027. Ingredients.

RELATES TO: KRS 250.501, 250.521
STATUTORY AUTHORITY: KRS 250.521(1)(c), 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631. KRS 250.521(1)(c) requires that a commercial feed label list the common or usual name of each ingredient used in the manufacture of a commercial feed, unless the director promulgates an administrative regulation permitting the use of a collective term for a group of ingredients. This administrative regulation establishes the required format for listing ingredients on the label of pet foods and specialty pet foods.

Section 1. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as established in subsections (1) through (4) of this section.
(1) The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style, and color**, except where the defined name of the ingredient includes genus and species (e.g., microorganisms) which may be shown in italics;**[.]
(2) The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms**, except if the ingredient is a vitamin and/or mineral premix, the premix may be declared in order of predominance by the name "vitamins" or "minerals," as appropriate, followed by a parenthetical listing of all the vitamins and/or minerals in the premix, each in their order of predominance by weight as listed on the ingredient statement of the premix label;**[,]
(3) Ingredients shall be listed and identified by the name and definition established by ***the Association of American Feed Control Officials (AAFCO)*** **Official Common or Usual Names and Definitions of Feed Ingredients*, incorporated by reference in 12 KAR 3:012* except any ingredient for which no AAFCO ingredient name exists shall be identified by the common or usual name;**[~~AAFCO.~~]
(4) Any ingredient **suitable for use in pet food or specialty pet food for which there is a codified standard of identity in Title 9**

or 21 of the Code of Federal Regulations shall be declared in accordance with the applicable regulation, which includes the name of the standardized food followed by a parenthetical listing of its ingredients, if necessary, as provided in the regulation;[**for which no name and definition have been so established shall be identified by the common or usual name of the ingredient.**]

(5) The ingredients "meat," "poultry," "poultry by-products," or "meat by-products" shall be qualified to designate the animal from which the ingredients are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof or the poultry or poultry meal are derived from chickens, turkeys, ducks, geese, guineas, ratites, or squabs, or any combination thereof. For example, ingredients derived from deer shall be listed as "venison" or "venison by-products";

(6) For ingredients consisting of fish, "fish meal," or "fish by-products," the name of the ingredient may include "fish" without further specification of the type of the fish or if it bears a name descriptive of its kind (e.g., "ocean whitefish" or by using the acceptable market name(s) or common name (but not any vernacular or slang names) of the individual fish species in the ingredient as established by the FDA Seafood List), it must correspond thereto; and

(7) For purposes of ingredient labeling of pet food or specialty pet food, the ingredient "sugar" shall refer to sucrose, which is obtained from sugar cane or sugar beets in accordance with the provisions in Title 21 of the Code of Federal Regulations. For all other labeling purposes outside the ingredient list, the term "sugar" shall be synonymous with "sugars" as defined in the Official Feed Terms.

[**Section 2.**] [**The ingredients "meat" or "meat by-products" shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof. For example, ingredients derived from horses shall be listed as "horsemeat" or "horsemeat by-products".**]

Section 2.[**Section 3.**] Brand or trade names shall not be used in the ingredient statement. **Reference to quality or grade of the ingredient shall not appear in the ingredient statement.**

[**Section 4.**] [**The quality, nature, form, or other attribute of an ingredient may be referenced if:**]

[**(1)**] [**The designation is not false or misleading;**]

[**(2)**] [**The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and**]

[**(3)**] [**A reference to quality or grade of the ingredient does not appear in the ingredient statement.**]

Section 3. If properly used as specified by the USDA National Organic Program (7 CFR Part 205), the term "organic" does not apply to Section 3 of this regulation.

Section 4. A reference to the nature, form, or other attribute of an ingredient shall be allowed in the ingredient statement when that attribute imparts a distinctive characteristic to the pet food or specialty pet food.

Section 5. Any reference to the percentage or combination of ingredients, by symbol or word, in the brand or product name or elsewhere on a pet food or specialty pet food, shall be based in relation to the total weight of all ingredients in the product.

(1) The names of the ingredient(s) shall appear in order of predominance by weight in the product, provided that names of flavors due to their varying intensity can be in any order.

(2) Where water sufficient for processing is excluded from the declared percentage, the exclusion of water shall be indicated in words juxtaposed to, the same style and color print, and at least one-half the print size of the stated percentage (e.g., "95% beef exclusive of water" or "95 percent chicken and liver exclusive of water").

[**Section 5.**] [**Incorporation by Reference.**]

[**(1)**] [**"2023][2018][][Official Publication", ([2023][2018] Edition), Association of American Feed Control Officials, is incorporated by reference.**]

[**(2)**] [**This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.**]

DR. JAMES MATTHEWS, Director of Agricultural Experiment Station
APPROVED BY AGENCY: January 13, 2026
FILED WITH LRC: January 15, 2026 at 10:00 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the required format for listing ingredients on the label of pet foods and specialty pet foods.
(b) The necessity of this administrative regulation: Provides a uniform guide on how ingredients are to be expressed on product labeling so all manufacturers are playing by the same rules.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provides clear rules on how ingredients are listed on product labeling.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2025 edition.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No.
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and CFR 21.
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA.

AGRICULTURAL EXPERIMENT STATION
(Amended After Comments)

12 KAR 3:028. Descriptive terms.

RELATES TO: KRS 250.501, 250.521, 15 U.S.C. 1451-1461
STATUTORY AUTHORITY: KRS 250.521(2)(e), (f), 250.571
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631. KRS 250.521 requires that pet foods be labeled and establishes the information that shall be stated on the label. This administrative regulation establishes a uniform format for labeling information for pet foods and **the**[~~**delineates**~~] criteria for the use of descriptive terms.

Section 1. Calorie Terms.
(1) "Light."
(a) A dog food product that **states**[~~**bears**~~] on its label the terms "light," "lite," "low calorie," or words of similar designation shall:
1. Contain no more than 3100 kcal ME/kg for products containing less than twenty (20) percent moisture, no more than 2500 kcal ME/kg for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than 900 kcal ME/kg for products containing sixty-five (65) percent or more moisture **and**;
2. [~~**Include on the label a calorie content statement:**~~]
[~~**a.**~~] [~~**In accordance with the format established in 12 KAR 3:042; and**~~]
[~~**b.**~~] [~~**That states no more than 3100 kcal ME/kg for products containing less than twenty (20) percent moisture, no more than 2500 kcal ME/kg for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than 900 kcal ME/kg for products containing sixty-five (65) percent or more moisture; and**~~]
[~~**3.**~~] Include on the label feeding directions that reflect a reduction in calorie intake consistent with the intended use.
(b) A cat food product that **states**[~~**bears**~~] on its label the terms "light," "lite," "low calorie," or words of similar designation shall:
1. Contain no more than 3250 kcal ME/kg for products containing less than twenty (20) percent moisture, no more than 2650 kcal ME/kg for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than 950 kcal ME/kg for products containing sixty-five (65) percent or more moisture **and**;
2. [~~**Include on the label a calorie content statement:**~~]
[~~**a.**~~] [~~**In accordance with the format established in 12 KAR 3:042; and**~~]
[~~**b.**~~] [~~**That states no more than 3250 kcal ME/kg for products containing less than twenty (20) percent moisture, no more than 2650 kcal ME/kg for products containing twenty (20)**

~~percent or more but less than sixty-five (65) percent moisture, and no more than 950 kcal ME/kg for products containing sixty-five (65) percent or more moisture; and~~]

[~~3.~~] Include on the label feeding directions that reflect a reduction in calorie intake consistent with the intended use.

(2) "Less" or "reduced calories."

(a) A dog or cat food product that **states**[~~bears~~] on its label a claim of "less calories," "reduced calories," or words of similar designation, shall include on the label:

1. The name of the product of comparison and the percentage of calorie reduction (expressed on equal weight basis) explicitly stated and juxtaposed with the largest or more prominent use of the claim on each panel of the label on which the term appears;

2. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; **and**

3. [~~**A calorie content statement in accordance with the format established in 12 KAR 3:042; and**~~]

[~~4.~~] Feeding directions that reflect a reduction in calories compared to feeding directions for the product of comparison.

(b) A comparison between products in different categories of moisture content (for example, less than twenty (20) percent, twenty (20) percent or more but less than sixty-five (65) percent, sixty-five (65) percent or more) **shall be considered**[~~is~~] misleading.

Section 2. Fat Terms.

(1) "Lean."

(a) A dog food product that **states**[~~bears~~] on its label the terms "lean," "low fat," or words of similar designation shall:

1. Contain no more than nine (9) percent crude fat for products containing less than twenty (20) percent moisture, no more than seven (7) percent crude fat for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than four (4) percent crude fat for products containing sixty-five (65) percent or more moisture; and

2. Include on the product label in the **nutrient guarantees**[~~Guaranteed Analysis~~]:

a. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as **established**[~~specified~~] in (12 KAR 3:022, Section 1(1); and

b. A maximum crude fat guarantee that is no more than nine (9) percent crude fat for products containing less than twenty (20) percent moisture, no more than seven (7) percent crude fat for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than four (4) percent crude fat for products containing sixty-five (65) percent or more moisture.

(b) A cat food product that **states**[~~bears~~] on its label the terms "lean," "low fat," or words of similar designation shall:

1. Contain a maximum percentage of crude fat that is no more than ten (10) percent crude fat for products containing less than twenty (20) percent moisture, no more than eight (8) percent crude fat for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than five (5) percent crude fat for products containing sixty-five (65) percent or more moisture; and

2. Include on the product label in the Guaranteed Analysis:

a. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as established in 12 KAR 3:022, Section 1(1); and

b. A maximum crude fat guarantee that is no more than ten (10) percent crude fat for products containing less than twenty (20) percent moisture, no more than eight (8) percent crude fat for products containing twenty (20) percent or more but less than sixty-five (65) percent moisture, and no more than five (5) percent crude fat for products containing sixty-five (65) percent or more moisture.

(2) "Less" or "Reduced Fat."

(a) A dog or cat food product that **states**[~~bears~~] on its label a claim of "less fat," "reduced fat," or words of similar designation, shall include on the label:

1. The name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears;

2. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

3. A maximum crude fat guarantee in the Guaranteed Analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as **established**[~~specified~~] in 12 KAR 3:022, Section 1(1).

(b) A comparison on the label between products in different categories of moisture content (for example, less than twenty (20) percent, twenty (20) percent or more but less than sixty-five (65) percent, sixty-five (65) percent or more) **shall be considered**[~~is~~] misleading.

Section 3. Carbohydrate Terms.

(1) "Low" carbohydrate, dietary starch, and sugars claims. A claim of "low carbohydrates," "low dietary starch," "low sugars," or a combination thereof shall be prohibited.

(2) "Less" or "reduced" carbohydrates, dietary starch, and sugars claims.

(a) A dog or cat food product that bears on its label a claim of "less _____" or "reduced _____" (the blank shall be completed by using "carbohydrates," "dietary starch," or "sugars") or words of similar designation, shall include on the label:

1. The name of the product of comparison and the percentage of reduction in total dietary starch plus sugars (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears;

2. The comparative statement printed in type of the same color and style and not less than one-half the size used in the claim; and

3. Maximum guarantees for dietary starch and sugars as established in 12 KAR 3:022, Section 1(3).

(b) A comparison between products in different categories of moisture content (for example, less than twenty (20) percent, twenty (20) percent or more but less than sixty-five (65) percent, sixty-five (65) percent or more) **shall be considered**[~~is~~] misleading.

[~~**Section 4.**~~] [~~**Incorporation by Reference.**~~]

[~~**(1)**~~] [~~**"2023 2018 Official Publication", (20232018 Edition), Association of American Feed Control Officials, is incorporated by reference.**~~]

[~~**(2)**~~] [~~**This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.**~~]

DR. JAMES MATTHEWS, Director of Agricultural Experiment Station
APPROVED BY AGENCY: January 13, 2026
FILED WITH LRC: January 15, 2026 at 10:00 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a uniform format for labeling information for pet foods and delineates criteria for the use of descriptive terms.
(b) The necessity of this administrative regulation: To ensure proper labeling directions on the labeling of pet and specialty pet food products.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provides further clarification on labeling for consumers and a level playing field for manufacturers.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative

regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2025 edition.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

AGRICULTURAL EXPERIMENT STATION
(Amended After Comments)

12 KAR 3:032. Feeding directions.

RELATES TO: KRS 250.491-250.631
STATUTORY AUTHORITY: KRS 250.571
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631. This administrative regulation establishes requirements for feeding directions to ensure that pet food and specialty pet food products have adequate labeling to provide for safe and effective use.

Section 1. All pet foods and specialty pet foods shall state feeding directions consistent with the intended use statement.

Section 2.[~~**Section 1.**~~]

[~~**(1)**~~] Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as established in 12 KAR 3:039, Section **2**[~~**3**~~](1) **or Section 3**, except those pet foods labeled in accordance with 12 KAR 3:039, Section 4, shall list feeding directions on the product label.

[~~**(2)**~~] [~~**These directions shall be consistent with the intended uses indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (for example, "adult formula").**~~]

(1)[~~**(3)**~~] These directions shall be expressed in common terms and shall appear prominently on the label.

(2)[~~**(4)**~~] Feeding directions shall, at a minimum[~~, state~~]:

(a) **Include the amount of familiar household unit of product weight of dog (or cat).**[~~**"Feed (weight/unit of product) per (weight) of dog (or cat)."; and**~~]

(b) The frequency of feeding.

Section 3.[~~**Section 2.**~~] If a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.

Section 4.[~~**Section 3.**~~]

[~~**(1)**~~] Specialty pet food, including snacks or treats, labeled as complete and balanced for any or all life stages, as established in 12 KAR 3:039, Section **2 or Section 3 or as a daily food**[~~**1**~~], shall list feeding directions on the product label.

(1)[~~**(2)**~~] These feeding directions shall be adequate to meet the nutritional requirements of the intended species of specialty pet[~~ **as recommended by the AAFCO-recognized nutritional authority**~~].

(2)[~~**(3)**~~] These directions shall be expressed in common terms and shall appear prominently on the label.

(3)[~~**(4)**~~] The frequency of feeding shall also be **stated**[~~**specified**~~].

[~~**Section 4.**~~] [~~**Incorporation by Reference.**~~]

[~~**(1)**~~] [~~**"[2018]Official Publication", ([2023][2018] Edition), Association of American Feed Control Officials, is incorporated by reference.**~~]

[~~**(2)**~~] [~~**This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.**~~]

DR. JAMES MATTHEWS, Director of Agricultural Experiment Station
APPROVED BY AGENCY: January 13, 2026
FILED WITH LRC: January 15, 2026 at 10:00 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation ensures that pet and specialty pet food products have adequate labeling to provide for safe and effective use.
(b) The necessity of this administrative regulation: To ensure proper feeding directions on the labeling of pet and specialty pet food products.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provides clarity on how feeding directions should be constructed on pet food labels.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2025 edition.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. Manufacturers that label pet food (guarantors) must transition to new PFLM label format by 2030.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): here may be some increased cost as industry moves from one label format to another. By allowing a transition period before PFLM changes must occur, the industry can make these changes as products are updated.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. The pet food industry was represented in the development of PFLM and supports the changes.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:

For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and CFR 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

AGRICULTURAL EXPERIMENT STATION
(Amended After Comments)

12 KAR 3:037. Drugs and pet food additives.

RELATES TO: KRS 250.501, 250.511, 250.541(1)(a), (b), (c), (d), (e), (f), (j), (2)(c), (d), (e), 21 C.F.R. Parts 70, 71, 73, 74, 80, 81, 82, 501.22, 570.3(1), 570.30, 582, 21 U.S.C. 360(b)

STATUTORY AUTHORITY: KRS 250.571(1)

CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631. KRS 250.541 defines adulterated commercial feeds and states how they may be adulterated by additives. KRS 250.551(1) and (2) prohibits the manufacturing and distribution of adulterated products as animal feeds. This administrative regulation establishes requirements to ensure that a drug or additive used in pet food or specialty pet food is safe and effective for its intended purpose.

Section 1. An artificial color may be used in a pet food or specialty pet food only if **the artificial color**[~~it~~] has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in 21 C.F.R. Part 70, 71, 73, 74, 80, 81, or 82, or 501.22 as safe for use, together with the conditions, limitations, and tolerances, if any, shall constitute evidence that the color is harmless to pets or specialty pets.

Section 2. Before approval of a label and a registration application, the distributor of a pet food, containing an additive including a drug, another special purpose additive, or a nonnutritive additive shall, upon request of the director, submit evidence to prove the safety and efficacy of the pet food if used according to label directions. Evidence of the safety and efficacy of a pet food or specialty pet food shall be:

(1) If the pet food or specialty pet food contains an additive that conforms to 21 C.F.R. 570.3(1), 570.30, or Part 582; or

(2) If the pet food or specialty pet food is a drug as defined by KRS 250.501(7) and is generally recognized by the Food and Drug Administration as safe and effective for its labeled use or is marketed **pursuant**[~~subject~~] to an application approved by the Food and Drug Administration under 21 U.S.C. 360(b).

Section 3. If a drug is included in a pet food or specialty pet food, the medicated labeling format recommended by the Association of American Feed Control Officials **(AAFCO), incorporated by reference in 12 KAR 3:012,**[~~in its~~][**2023**][~~2018~~] Official Publication shall be used to **ensure**[~~insure~~] that adequate labeling is provided.

[~~**Section 4.**~~] [~~**Incorporation by Reference.**~~]

[~~**(1)**~~] [~~"~~][**2023**][~~**2018**~~][~~ **Official Publication", (**~~][**2023**][~~**2018**~~][~~**Edition), Association of American Feed Control Officials, is incorporated by reference.**~~]

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DR. JAMES MATTHEWS, Director of Agricultural Experiment Station
APPROVED BY AGENCY: January 13, 2026
FILED WITH LRC: January 15, 2026 at 10:00 a.m

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes requirements to ensure that a drug or additive used in pet food or specialty pet food is safe and effective for its intended purpose.
(b) The necessity of this administrative regulation: Provide guidelines for safe use of drugs and additives in pet or specialty pet foods.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Defines proper usage of drugs or additives in pet or specialty pet foods.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from

the 2018 Edition to the 2025 edition.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No action required by distributors of animal feed. No significant action is required by manufacturers of animal feed.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No significant benefit to distributors of animal feed. Manufacturers of animal feed may benefit from additional ingredients available for use in products and more descriptive ingredient definitions.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

AGRICULTURAL EXPERIMENT STATION
(Amended After Comments)

12 KAR 3:039. Nutritional adequacy.

RELATES TO: KRS 250.501, 250.521, 15 U.S.C. 1451-1461
STATUTORY AUTHORITY: KRS 250.521(2)(e), (f), 250.571
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631. KRS 250.521 requires that pet foods and specialty pet foods be labeled and establishes the information that shall be stated on the label. This administrative regulation establishes a uniform format for establishing nutritional adequacy in labeling information for pet foods and specialty pet foods and **the**[~~**delineates**~~] criteria for product claims.

Section 1. The label of a pet food or specialty pet food that is intended for all life stages and sizes of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as "complete and balanced," "perfect," "scientific," or "100% nutritious" if at least one (1) of the following apply:

(1) The product complies with the nutrient requirements for all life stages and sizes established by **the**[~~an~~] **Association of American Feed Control Officials (AAFCO), incorporated by reference in 12 KAR 3:012**[~~AAFCO-recognized~~] nutrient profile;

(2) The product complies with the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocols; or

(3) The product is a member of a product family that is nutritionally similar to a lead product that contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, if:

(a) The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO;

(b) The family product complies with the criteria for all life stages; and

(c) Under circumstances of reasonable doubt, the director requires the manufacturer to perform additional testing of the family product and substantiates the claim of nutritional adequacy.

Section 2. The label of a pet food or specialty pet food that is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may include a qualified claim such as "complete and balanced," "perfect," "scientific," or "100% nutritious" if the product and claim meet all of the following:

(1) The claim is qualified with a statement of the limited purpose of specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies (or kittens)." The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and

(2) The product complies with at least one (1) of the following:

(a) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile;

(b) The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol; or

(c) The requirements of a product family that is nutritionally similar to a lead product that contains a combination of ingredients that, if fed for the limited purpose, will satisfy the nutrient requirements for the limited purpose and **the**[~~has had its~~] capabilities **of the product** in this regard demonstrated by adequate testing, and if:

1. The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO;

2. The family product meets the criteria for the limited purpose; and

3. Under circumstances of reasonable doubt, the director requires the manufacturer to perform additional testing for the family product and substantiates the claim of nutritional adequacy.

Section 3. Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except if the dog or cat food is clearly and conspicuously identified on the principal display panel as "snack," "treat," or "supplement." The statement shall consist of one (1) of the following:

(1) A claim that the dog or cat food complies with the requirements of one (1) or more of the recognized categories of nutritional adequacy: gestation or lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one (1) of the following:

(a) "(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for _____." (The blank shall be completed by using the stage or stages of the pet's life, such as gestation or lactation, growth, maintenance, or the words "All Life Stages."). For a dog food, if the blank includes the words "growth" or "all life stages," one (1) of the following phrases shall also be added verbatim to the end of the claim:

1. "including growth of large size dogs (70 lb. or more as an adult)" if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs; or

2. "except for growth of large size dogs (70 lb. or more as an adult)" if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs;

(b) "Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for _____." (The blank shall be completed by using the stage or stages of the pet's life tested, such as gestation **and** [*/*]lactation, growth, maintenance, or the words "all life stages."); or

(c) "(Name of Product) provides complete and balanced nutrition for _____ (The blank shall be completed by using the stage or stages of the pet's life, such as gestation and lactation, growth, maintenance, or the words "all life stages") and is comparable in nutritional adequacy to a product that has been substantiated using AAFCO feeding test.";

(2) A nutritional or dietary claim for purposes other than those established in Sections 1 and 2 of this administrative regulation if the claim is scientifically substantiated; or

(3) The statement: "This product is intended for intermittent or supplemental feeding only," if a product does not comply with the requirements of Sections 1 and 2 of this administrative regulation or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

Section 4. A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with Section 3(1) or (3) of this administrative regulation.

Section 5. A signed affidavit attesting that the product complies with the requirements of Sections 1 or 2(2) of this administrative regulation shall be submitted to the director upon request.

Section 6. If the nutrient content of a product does not comply with those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO recognized nutritional authority for the life stages of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.

Section 7. The following AAFCO-recognized nutritional authority, nutrient profile, or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:

(1) As an AAFCO-recognized nutrient profile or nutritional authority:

(a) For dogs, the AAFCO Dog Nutrient Profiles;

(b) For cats, the AAFCO Cat Nutrient Profiles; and

(c) For specialty pets, the nutrient recommendation approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, if this nutrient recommendation is recognized only for the specific specialty pet of which the profile is intended; and

(2) As an AAFCO-recognized animal feeding protocol, the AAFCO Dog and Cat Food Feeding Protocols.

(3) Regulations in Sections 1 through 7 shall remain in effect until June 30, 2030.

Section 8. A statement identifying the intended use of a pet food or specialty pet food is required on the principal display panel of the label in accordance with the following:

(1) The intended use of a pet food or specialty pet food shall be stated as:

(a) "Complete [Species] Food" – for food products intended to be the complete diet for all life stages and sizes of a pet or specialty pet in accordance with the unqualified claims in 12 KAR 3:039, Section 2;

(b) For food products intended to be the complete diet for a limited life stage and size of a pet or specialty pet in accordance

with the qualified claims in 12 KAR 3:039, Section 3, one of the following statements shall be used:

1. "Complete Food for [blank] where the blank shall be filled with one or more of the following:

a. "Adult [Species],"

b. "Puppies, "Kittens", or "Juvenile [Species other than dog or cat],"

c. "Puppies (<70 lb. as an adult)", or

d. "Dogs (except puppies>70 lb. as an adult)"; or

2. "Complete [Blank] Food where the blank shall be filled with one or more of the following:

a. "Adult [Species],"

b. "Puppies, "Kittens", or "Juvenile [Species other than dog or cat],"

c. "Puppies (<70 lb. as an adult)", or

d. "Dogs (except puppies>70 lb. as an adult)"; or

(c) "Veterinary Diet for [Species]" – for food products intended to be used under veterinary supervision only in accordance with 12 KAR 3:039, Section 4;

(d) "[Species] Treat" – for food products for pets or specialty pets, provided occasionally for enjoyment, training, entertainment, or other purposes, and not generally intended or represented to be a complete food or nutritional supplement;

(e) "[Species] Food Supplement" – for food products for pets or specialty pets that are intended to supply specific nutrient(s) or other food components but are not a complete diet;

(f) "[Species] Food Mixer" – for food products for pets or specialty pets that are intended to top, accompany, or contribute to a complete diet; or

(g) "Daily [Specialty Pet Species] Food" – for food products that are intended to be the dairy diet for specialty pets where no recognized nutritional authority exists. A limited life stage may be indicated, i.e., "Daily [Specialty Pet Species] Food for [Juveniles or Adults]."

(2) This intended use statement shall:

(a) Appear within the bottom 30% of the area of the label principal display panel in lines generally parallel to the base on which the package rests as it is designed to be displayed and shall be repeated on the alternate principal display panel, if present. However, on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom 30% of the area of the label panel shall not apply;

(b) Be at least as large as the statement of net quantity, consistent with 16 C.F.R. 500.21;

(c) Appear in the same color and style as the statement of net quantity and on the same background color as the statement of net quantity; and

(d) Be separated by at least a space equal to the height of the letter "N" used in the statement of net quantity from other printed label information appearing above or below it and by at least a space equal to twice the width of the letter "N" of the style of type used in the quantity of contents statement from other printed label information appearing to the left or right of it.

[**Section 8.**] [**Incorporation by Reference.**]

[**(1)**] [**"2023**][**2018**][**Official Publication", (2023**][**2018**][**Edition), Association of American Feed Control Officials, is incorporated by reference.**]

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DR. JAMES MATTHEWS, Director of Agricultural Experiment Station

APPROVED BY AGENCY: January 13, 2026

FILED WITH LRC: January 15, 2026 at 10:00 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison

Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a uniform format for nutritional adequacy in labeling information of pet foods and specialty pet foods and delineates criteria for product claims.

(b) The necessity of this administrative regulation: This is regulation that matches what has been put forth by the American Association of Feed Control Officials as part of their model bill for pet foods. This has been adopted by many states and helps provide uniformity for those companies selling product in multiple states. The regulation provides needed information to consumers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provides direction in product labeling.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2025 edition.

(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.

(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.

(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018 and modernizes labeling standards.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Transition to new PFLM label format by 2030.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There may be some increased cost as industry moves from one label format to another. By allowing a transition period before PFLM changes must occur, the industry can make these changes as products are updated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The pet food industry was represented in the development of PFLM and supports the changes.

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

(a) Initially: No cost.

(b) On a continuing basis: No cost.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no

increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and C.F.R. 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

AGRICULTURAL EXPERIMENT STATION
(Amended After Comments)

12 KAR 3:042. Statements of calorie content.

RELATES TO: KRS 250.501, 250.521
STATUTORY AUTHORITY: KRS 250.571(1)
CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631. This administrative regulation establishes a uniform procedure for determining the caloric content of dog and cat foods and expressing it on product labels.

Section 1. The label of a dog or cat food, including snacks, treats, and supplements, shall **include**[~~bear~~] a statement of calorie content and comply with the requirements established in subsections (1) through (5) of this section.
(1) The statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content".
(2) The statement shall be measured in terms of metabolizable energy (ME) on an "as fed" basis and **shall**[~~must~~] be expressed both as "kilocalories per kilogram" ("kcal/kg") of product, and as kilocalories per familiar household measure (for example, cans or cups) or unit of product (for example, treats or pieces).
(3) The calorie content shall be determined by one (1) of the following methods:
(a) By calculation using the following "Modified Atwater" formula:

$$ME(kcal/kg) = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$$

where ME = metabolizable energy,
CP = % crude protein "as fed,"
CF = % crude fat "as fed,"
NFE = % nitrogen-free extract (carbohydrate) "as fed," and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture and ash (determined in the same manner as CP and CF); or

(b) In accordance with a testing procedure established by **the Association of American Feed Control Officials (AAFCO), incorporated by reference in 12 KAR 3:012**[~~AAFCO~~].
(4) An affidavit shall be provided upon request of the director, substantiating that the calorie content was determined by:
(a) Subsection (3)(a) of this section, in which case the summary data used in the calculation shall be included in the affidavit; or
(b) Subsection (3)(b) of this section, in which case the summary data used in the determination of calorie content shall accompany the affidavit.
(5) The caloric content statement shall appear as one (1) of the following:
(a) The heading "Calorie Content" on the label or other labeling shall be followed parenthetically by the word "calculated" if the caloric content is determined in accordance with subsection (3)(a) of this section; or
(b) The heading "Calorie Content" on the label or other labeling shall be followed parenthetically by the word "fed" if the calorie

content is determined in accordance with subsection (3)(b) of this section.

Section 2. A comparative claim shall:
(1) Not be false, misleading, or given undue emphasis; and
(2) Be based on the same methodology for all products compared.

Section 3. **Regulations in Sections 1 through 2 shall remain in effect until June 30, 2030.**

Section 4. The statement shall be determined in terms of metabolizable energy (ME) on an "as fed" moisture basis by one of the following methods then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) By calculation (indicated with a "†"in the Pet Nutrition Facts) using the following "Modified Atwater" formula: ME (kcal/kg) = 10[(3.5 × CP) + (8.5 × CF) + (3.5 × NFE)], where ME = metabolizable energy, CP = % crude protein "as fed," CF = % crude fat "as fed," NFE = % nitrogen-free extract (carbohydrate) "as fed," and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or

(2) In accordance with testing procedures determined by the Association of American Feed Control Officials (AAFCO) and indicated as "fed" in the Pet Nutrition Facts (12 KAR 3:022 Section 10).

Section 5. An affidavit shall be provided upon the request of [regulatory authority], substantiating that the Calorie content was determined by:

(1) Regulation 12 KAR 3:042 Section 4 (1) in which case the summary data used in the calculation shall be included in the affidavit; or

(2) Regulation 12 KAR 3:042 Section 4 (2) in which case the summary data used in the determination of Calorie content shall accompany the affidavit.

Section 6. The Calories from protein, fat, and carbohydrate as required in the Pet Nutrition Facts are determined using the following calculation, then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) Protein: ME (kcal/kg) = 10(3.5 × CP), where ME = metabolizable energy, CP = % crude protein "as fed" and the percentage of CP is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(2) Fat: ME (kcal/kg) = 10(8.5 × CF), where ME = metabolizable energy, CF = % crude fat "as fed" and the percentage of CF is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(3) Carbohydrate: ME (kcal/kg) = 10(3.5 × NFE), where ME = metabolizable energy, NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash; CP = % crude protein "as fed," CF = % crude fat "as fed" and the percentages are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

Section 7. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.[**~~Incorporation by Reference.~~**]

[**~~(1)~~**] [**~~"2023[2018] Official Publication", (2023 Edition), Association of American Feed Control Officials, is incorporated by reference.~~**]

[**~~(2)~~**] [**~~This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.~~**]

DR. JAMES MATTHEWS, Director of Agricultural Experiment Station
APPROVED BY AGENCY: January 13, 2026
FILED WITH LRC: January 15, 2026 at 10:00 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: G. Alan Harrison
Subject Headings: Agriculture, Pet Food and Feed, Consumer Protection
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a uniform procedure for determining the caloric content of dog and cat foods and expressing it on product labels.
(b) The necessity of this administrative regulation: Provide needed information to consumers.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Helps allow for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Provides direction in product labeling.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment updates usage of the Official Publication of the American Association of Feed Control Officials (AAFCO) from the 2018 Edition to the 2025 edition.
(b) The necessity of the amendment to this administrative regulation: The feed ingredient and feed terms defined in the Official Publication of AAFCO needed to be updated from the older version to a more modern version.
(c) How the amendment conforms to the content of the authorizing statutes: Updates terms and definitions used to regulate the feed industry.
(d) How the amendment will assist in the effective administration of the statutes: These updates are beneficial to both the regulatory body and the regulated industry as it brings in new terms and definitions that have been developed since 2018.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Firms which register commercial feeds in Kentucky will be affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Transition to new PFLM label format by 2030.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There may be some increased cost as industry moves from one label format to another. By allowing a transition period before PFLM changes must occur, the industry can make these changes as products are updated.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The pet food industry was represented in the development of PFLM and supports the changes.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No cost.
(b) On a continuing basis: No cost.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Division of Regulatory Services regular annual budget is the source of funding.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees and no increase in existing fees.
(10) TIERING: Is tiering applied? No, this administrative regulation treats all regulated entities the same.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 250.571
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 250.571
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: University of Kentucky Division of Regulatory Services
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
2. Revenues:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
3. Cost Savings:
For the first year: No fiscal impact
For subsequent years: No fiscal impact
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No impact on local entities
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No impact on other entities
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: No impact
For subsequent years: No impact
2. Revenues:
For the first year: No impact
For subsequent years: No impact
3. Cost Savings:
For the first year: No impact
For subsequent years: No impact
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This regulation is being updated to reference the latest recommendations from the Association of American Feed Control Officials with regards to ingredient definitions and labeling of pet food.
(b) Methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No
(b) The methodology and resources used to reach this conclusion: Minor changes in regulation affect only manufacturers and guarantors of pet food.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. Federal Food, Drug, and Cosmetic Act and CFR 21
(2) State compliance standards. In harmony with federal standards.
(3) Minimum or uniform standards contained in the federal mandate. Standards developed by the Association of American Feed Control Officials are in harmony with federal standards.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
(Amended After Comments)

505 KAR 1:410. Restrictive housing[~~Isolation~~] and protective custody.

RELATES TO: KRS 15A.065, 15A.0652,[~~, 200.080-200.120,~~] Chapters 600-645
STATUTORY AUTHORITY: KRS [~~15A.065(1),~~]15A.0652, [~~15A.160,~~]605.150, 635.095[~~, 635.100(7)~~], 640.120[~~, 645.250~~]
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS [~~15A.065(1),~~]15A.0652,[~~ 15A.160,~~] 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes procedures for restrictive housing[~~isolation~~] and protective custody in juvenile detention centers and youth development centers.

Section 1. General Provisions[~~Isolation~~].
(1) Restrictive housing[~~Isolation~~] **means the removal of a juvenile from the general population and placement in a room with the door closed and secured due to a direct and clear threat to the safety or security of the facility, staff, the juvenile or other juveniles. The juvenile's personal items may be removed, including the mattress and bed linen. A mattress and bed linen shall be returned to the juvenile during normal sleeping hours unless the juvenile uses the mattress or linen to obstruct the view into the room or to obstruct the view of the in-room camera, attempts to destroy the mattress or linen, is on suicide watch pursuant to 505 KAR 1:120, or otherwise uses the mattress or linen in a manner that creates a safety risk to the juvenile, other juveniles, or facility.**
(2) Any reference to "isolation" in 505 KAR Chapter 1 or any DJJPP shall be interpreted to be a reference to "restrictive housing."
(3) Restrictive Housing shall only apply to juveniles in juvenile detention centers and youth development centers.
(4) Restrictive housing shall only be used for behavior management. Restrictive housing shall not be used for punishment, staff convenience, or minor rule violations.
(5)[**(2)**] Restrictive housing shall only be used for a direct and clear [~~A juvenile may be placed in isolation if the juvenile constitutes a~~] threat to the safety or security of the facility, staff,[~~ or a~~]juvenile or

other juveniles **(hereinafter "direct and clear threat"), and only where less restrictive interventions have failed or cannot be safely implemented. Direct and clear threats include**[~~including, but not limited to~~]:

[~~(3)~~] [~~The following situations may constitute a threat to the safety or security of the facility, staff, or a juvenile and may result in an isolation placement:~~]

(a) Assault or attempted assault;

(b) Sexual assault or attempted sexual assault;

(c) Attempted escape[~~or attempted absent without leave~~];

(d) Escape;

(e) Participating in a riot;

(f) Planning a riot;

(g) Possessing dangerous contraband as defined by**KRS 520.010(3)**[**KRS 120.0103**];[~~or~~]

(h) Causing extensive property damage; or

(i) Any other serious or violent behavior that compromises the safety and security of residents or staff.

(6)[**(3)**] [**The time periods in which action is necessitated by this regulation**] **The authorizations and visits in Section 2 and administrative reviews in Section 3(6) of this Administrative Regulation** are suspended [**during resident sleeping hours**]from 8:00 p.m. to 6:00 a.m., and any delayed **action**[**assessment**] shall occur within two (2) hours of 6:00 a.m. **If the juvenile is asleep, he or she should not be disturbed for those purposes.**

(7)[**(4)**] Prior to going into restrictive housing, the **direct and clear threat**[**reason**] shall be explained to the juvenile and an opportunity provided for the juvenile to explain the behavior. The juvenile's statement shall be contemporaneously documented on the incident report. The release criteria in the plan shall state the behavioral expectations required for release, be explained to the juvenile, and be signed by the juvenile. If the juvenile is at the time **unwilling or unable to sign**[**presenting a danger to himself or others, or is being non-compliant**], the juvenile's signature is not required, and staff shall indicate in writing such **unwillingness or inability.**[**danger or non-compliance**]

(8)[**(5)**] Staff shall make direct visual contact with the juvenile at staggered intervals not to exceed fifteen (15) minutes**, and if the juvenile is awake, staff shall**[~~to~~] determine **if** the **juvenile is in** [**juvenile's**]compliance with the plan for release. These checks shall be contemporaneously documented on an observation log.

(9)[**(6)**] If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the shift supervisor or above shall return the juvenile to the general population **as soon as practicable**. The time of release and the identity of the person releasing shall be documented contemporaneously on an observation log.

(10)[**(7)**]

(a) If the juvenile continues to demonstrate negative or concerning behaviors and does not respond to reasonable redirection and guidance from staff, or the juvenile's behavior escalates or is beyond control, a qualified mental health professional (QMHP) shall be contacted as soon as possible by the administrative duty officer (ADO), youth services program specialist (YSPS), or superintendent but in no event not more than one (1) hour after the conduct occurs.

(b) The QMHP shall assess the juvenile to determine if acute psychiatric symptoms are contributing to the juvenile's behavior. Acute psychiatric symptoms include suicidal ideation, homicidal ideation, plan/intent to engage in self-injurious behaviors, mood disturbance, psychosis, thought-disordered thinking, symptoms associated with previous trauma or other signs of severe psychological distress.

(c) Based on the outcome of the assessment, the QMHP shall make recommendations for appropriate intervention.

(11)[**(8)**] If at any time a juvenile exhibits deterioration in mental status during a restrictive housing placement, including by failing to respond, by their statements, by their refusal to eat, or by their refusal to perform personal hygiene as observed by staff during the fifteen (15) minute checks, a QMHP shall be contacted immediately to determine the most appropriate action based on the treatment needs of the juvenile. The contact and the person making the contact shall be contemporaneously documented in an observation log.

(12)[**(9)**] The juvenile shall be afforded living conditions and privileges approximating those available to the general population including modified access to recreation, educational and treatment services, taking into consideration the safety and security of the juvenile and the facility. All services shall be contemporaneously documented on a services log. Any adjustments shall be documented, including the reason for the change.

(13)[**(10)**] The juvenile shall be responsible for keeping their room clean while in restrictive housing.

Section 2. Authorizations.

(1) Initial authorization shall be obtained from the facility superintendent, YSPS, ADO, or shift supervisor prior to placing a juvenile in restrictive housing placement and documented. If prior authorization cannot be obtained without jeopardizing the safety or security of the facility, staff, or juvenile, authorization shall be obtained immediately following the safe securing of the juvenile, but in no event not more than one (1) hour.

(2) An initial restrictive housing placement shall not exceed four (4) hours.

(3) An extension beyond an initial four (4) hour period, not to exceed eight (8) hours shall only be granted after the superintendent or the ADO has visited with the juvenile to determine if the juvenile can comply with the plan for release. These visits and the specific behaviors noted shall be contemporaneously documented on an observation log. If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released. If not, the extension shall be approved and shall be contemporaneously documented on an observation log with the reason for the extension.

(4) An extension of a restrictive housing placement beyond eight (8) hours, and for each four (4) hour extension up to twenty-four (24) hours, shall require approval of the executive director. The decision shall only be made after the superintendent or the ADO has visited with the juvenile to determine if the juvenile can comply with the plan for release. These visits and the specific behaviors noted shall be documented contemporaneously on an observation log. If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released. If not, the extension shall be approved and shall be contemporaneously documented on an observation log with the reason for the extension, and additional approval shall be obtained every four (4) hours.

(5) An extension of a restrictive housing placement beyond twenty-four (24) hours, and for each four (4) hour extension up to forty-eight (48) hours, shall require the approval of the Commissioner after consulting with the mental health authority or designee only after review and approval of the executive director. The executive director shall decide only after the superintendent or the ADO has visited with the juvenile to determine if the juvenile can comply with the plan for release and the mental health assessment has been done as set out in Section 3(5) of this administrative regulation. These visits and the specific behaviors noted shall be documented contemporaneously on an observation log. If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released. If not, the extension shall be approved and shall be contemporaneously documented on an observation log with the reason for the extension, and additional approval shall be obtained every four (4) hours.

(6) An extension of a restrictive housing placement beyond forty-eight (48) hours, and for each four (4) hour extension up to seventy-two (72) hours, shall require the approval of the cabinet secretary or designee after consulting with the mental health authority only after review and approval of the commissioner and the executive director. The commissioner and executive director shall only decide only after the superintendent or ADO has visited with the juvenile to determine if the juvenile can comply with the plan for release and the mental health assessment has been done as set out in Section 3(5) of this administrative regulation. These visits and the specific behaviors noted shall be contemporaneously documented on an observation

log. If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released. If not, the extension shall be approved and shall be contemporaneously documented on an observation log with the reason for the extension, additional approval shall be obtained every four (4) hours, and appropriate mental health treatment shall be provided.

(7) A restrictive housing placement shall not exceed seventy-two (72) hours or three (3) days. If grounds meriting restrictive housing placement are present after three (3) days, a special management plan **modifying any treatment plan authorized by 505 KAR 1:120 to account for the placement status** shall be **created by a QMHP. The**[~~**implemented and the**~~] mental health authority and the commissioner shall evaluate whether a mental health hospitalization of the juvenile should be pursued.

Section 3. Visits and Assessments.

(1) The facility nurse shall be consulted as soon as possible, or within one hour of placement, to determine if there are medical contraindications for the juvenile being placed in restrictive housing and this consultation shall be documented on an observation log.

(2) The facility nurse shall assess juveniles placed in restrictive housing as soon as possible, but in no event later than one (1) hour.

(3) Injuries, bruises or scratches, and observations shall be noted by a minimum of two (2) staff and photographed by staff who were not involved in the incident. The nurse shall document the date, time, and results of the assessment.

(4) The juvenile shall receive a visit from the facility nurse every twenty-four (24) hours unless medical attention is needed more frequently. The visit shall be documented contemporaneously in an observation log.

(5) If a juvenile's **direct and clear threat**[~~**problem**~~]behavior lasts twenty-four (24) hours[~~**and there appears to be a need for continued intervention**~~], a QMHP shall assess the juvenile **no less than** every twelve (12) hours. Any treatment provided shall be documented contemporaneously in the juvenile's medical record.

(6) An administrative review shall be conducted and documented by a facility superintendent, ADO, YSPS, counselor or shift supervisor, within four (4) hours of placement in restrictive housing, and a reassessment shall be done at each shift change or a minimum of eight (8) hours, thereafter, to determine the juvenile's readiness for release. The reviews shall be completed by a staff member not involved in the incident. In instances where a prior room restriction, intensive room supervision, or room confinement placement was not successful and a restrictive housing placement was started, this review shall take place as soon as the restrictive housing protocol has started.

(7) Juveniles in restrictive housing shall be visited at least once every twenty-four (24) hours by the superintendent or ADO, medical staff, and clinical or social work staff. A juvenile may request a visit from a member of the clergy, if available. All visits with the juvenile during placement on restrictive housing shall be documented contemporaneously on an observation log and services log.

Section 4. Documentation.

(1) All documentation shall be legible.

(2) When a juvenile is removed from the general population and placed on restrictive housing, a restrictive housing packet shall be started and shall include:

(a) An incident report;

(b) A services log;

(c) A medical checklist;

(d) An observation log and addendum(s);

(e) A plan for release; and

(f) Any professional/administrative reviews.

(3) An incident report shall include:

(a) Restrictive housing shall be indicated on the incident report.

(b) The juvenile's explanation of the juvenile's behavior or statement should be included, if any.

(c) The name and title of the staff requesting and authorizing the initial placement and the transition to restrictive housing or extension, and the time approval was requested and received;

(d) The reason for the placement with specific detail about how the juvenile presents a risk to safety and security or orderly facility operations;

(e) The duration of the placement; and

(f) The reason for each extension request, the reason the request was granted or denied, and the duration of the extension.

(4) A plan for release shall:

(a) Be authored by the staff in conjunction with the shift supervisor;

(b) State the behavior expectation for release from the room placement;

(c) Be explained to the juvenile by staff;

(d) Be signed by the juvenile. If a juvenile refuses to sign, the plan shall be explained orally by a noninvolved staff member and witnessed by a third party.

(e) Include specific behaviors related to the incident necessary for the juvenile to obtain release such as:

1. Regain control of their behavior;

[~~2.~~] [**Willingness to participate in required activities;**]

2.[~~3.~~] Able to interact in a calm manner; and

3.[~~4.~~] Is no longer a direct and clear threat to the security, safety, or orderly management of the facility.

(f) Not include generalized attitude without specific behaviors listed. Failure to clean the room shall not be the sole grounds to deny release.

(5) Observation log.

(a) Behavioral observations shall be documented in an observation log and the shift supervisor shall be notified of any medical or behavioral health issues that would warrant immediate attention for follow-up.

(b) The observations shall include the youth's comments and any credible threats as observed by staff familiar with the youth's behavior.

(c) The fifteen (15) minute checks shall be documented on an observation log.

(d) The time of the release and the person releasing shall be contemporaneously documented in an observation log.

(6) A services log shall document all services provided to the juvenile while in room restriction including recreation, education, meals, and counseling.

(7) The documentation shall be placed in the juvenile's individual client record.

[~~(4)~~] [~~Authorization shall be obtained from the facility manager, youth services program supervisor, administrative duty officer, or shift supervisor prior to placing a juvenile into isolation. If prior authorization cannot be obtained without jeopardizing the safety and security of the facility, staff, or other juveniles, authorization shall be obtained immediately following the safe securing of the juvenile. An isolation placement shall not exceed four (4) hours without further action as stated in subsections (5) through (7) of this section.~~]

[~~(5)~~] [~~Isolation in a detention center.~~]

[~~(a)~~] [~~The facility manager may authorize a juvenile to remain in isolation beyond an initial four (4) hour period, not to exceed twenty-four (24) hours.~~]

[~~(b)~~] [~~An extension of an isolation placement beyond twenty-four (24) hours and up to thirty-six (36) hours shall require the approval of the division director. The division director shall consider whether the juvenile:~~]

[~~1.~~] [~~Has regained control of their behavior; and~~]

[~~2.~~] [~~Is no longer a threat to the security, safety, or orderly management of the facility.~~]

[~~(c)~~] [~~An extension of an isolation placement beyond thirty-six (36) hours and up to a maximum of forty-eight (48) hours shall require the approval of the division director and the chief of mental health services. For the extension decision, they shall consider:~~]

[~~1.~~] [~~Whether the juvenile has regained control of their behavior; and~~]

[~~2.~~] [~~Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and~~]

[~~3.~~] [~~The mental health issues of the juvenile.~~]

[~~(d)~~] [~~If a highly assaultive juvenile requires isolation for more than forty-eight (48) hours, an extension of an isolation placement beyond forty-eight (48) hours shall require the approval of the~~

~~respective division director and the chief of mental health services. Any extension made shall be reviewed every twenty-four (24) hours and shall not exceed five (5) days. For the extension decision, they shall consider:~~]

[~~1.~~] [~~Whether the juvenile has regained control of their behavior; and~~]

[~~2.~~] [~~Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and~~]

[~~3.~~] [~~The mental health issues of the juvenile.~~]

[~~(6)~~] [~~Isolation in youth development centers and group homes.~~]

[~~(a)~~] [~~The facility manager may authorize a juvenile to remain in isolation beyond an initial four (4) hour period, not to exceed twenty-four (24) hours.~~]

[~~(b)~~] [~~An extension of an isolation placement beyond twenty-four (24) hours and up to thirty-six (36) hours shall require the approval of the facilities regional administrator. For the extension decision, the FRA shall consider whether the juvenile:~~]

[~~1.~~] [~~Has regained control of their behavior; and~~]

[~~2.~~] [~~Is no longer a threat to the security, safety, or orderly management of the facility.~~]

[~~3.~~] [~~An extension of an isolation placement beyond thirty-six (36) hours and up to a maximum of forty-eight (48) hours shall require the approval of the respective division director and the regional psychologist. For the extension decision, they shall consider:~~]

[~~a.~~] [~~Whether the juvenile has regained control of their behavior; and~~]

[~~b.~~] [~~Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and~~]

[~~c.~~] [~~The mental health issues of the juvenile.~~]

[~~(c)~~] [~~If a highly assaultive juvenile requires isolation for more than forty-eight (48) hours, an extension of an isolation placement beyond forty-eight (48) hours shall require the approval of the respective division director, the regional psychologist, and the chief of mental health services. Any extension made shall be reviewed every twenty-four (24) hours and shall not exceed five (5) days. For the extension decision, they shall consider:~~]

[~~1.~~] [~~Whether the juvenile has regained control of their behavior; and~~]

[~~2.~~] [~~Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and~~]

[~~3.~~] [~~The mental health issues of the juvenile.~~]

[~~(7)~~] [~~The nurse shift program supervisor or on call nurse designee shall be notified as soon as feasible to determine if there are contra-indications for the juvenile being placed in isolation.~~]

[~~(a)~~] [~~The facility nurse or health services protocol trained staff shall assess a juvenile placed in isolation as soon as it is safe to do so, as dictated by the director of medical services.~~]

[~~(b)~~] [~~Injuries, bruises, scratches, and other observations shall be noted by a minimum of two (2) staff. The nurse or designee shall document the date, time, and results of the assessment.~~]

[~~(8)~~] [~~Isolation may be used if requested by a juvenile and staff concur that the placement is in the best interest of the juvenile.~~]

[~~(9)~~] [~~An assessment of a juvenile in isolation shall not be required to occur within the deadlines established in subsections (5) through (7) of this section, if the deadline falls within the normal sleep time for the facility. A delayed assessment shall occur within two hours of the normal awake time for the facility.~~]

[~~(10)~~] [~~A juvenile in isolation shall be visited at least once a day by the facility manager or designee, medical or medically trained staff, and clinical or social work staff or designee. A juvenile may request a visit from clergy or other religious representative. All interactions with the juvenile during placement on isolation shall be documented.~~]

[~~(11)~~] [~~The regional psychologist or designee shall conduct interviews and assessments for disturbances in mental status, including, for example, depression; suicidal ideation; impaired thought processes, cognition or memory; agitation; paranoia; self-injurious behavior; evidence of bruises or other signs of trauma; and whether the juvenile's behavior has escalated beyond the staff's ability to control the juvenile by counseling or disciplinary measures.~~]

[~~(12)~~] [~~If a juvenile exhibits deterioration in mental status while in isolation, the regional psychologist shall be contacted to determine the most appropriate action based on the treatment needs of the juvenile.~~]

[~~(13)~~] [~~If a juvenile's problem behavior lasts twenty-four (24) hours and there appears to be a need for continued intervention, qualified health personnel shall assess the juvenile daily.~~]

[~~(14)~~] [~~The juvenile in isolation shall be afforded living conditions and privileges approximating those available to the general population, including modified access to recreation and educational and treatment services taking into consideration the juvenile's and facility safety and security needs.~~]

[~~(15)~~] [~~The juvenile shall be responsible for the daily cleaning of their living area in isolation.~~]

[~~(16)~~] [~~Release from isolation may occur based on the juvenile's behavior and state of mind.~~]

Section 5.[~~Section 2.~~] Restrictive housing for[~~Isolation of~~] suicidal juveniles.

(1) Restrictive housing[~~Isolation~~] shall not be used as a suicide precaution.

(2) A juvenile who is suicidal may only be placed in restrictive housing[~~isolation~~] if the juvenile presents an immediate assault risk to staff or other juveniles as evidenced by physical actions and other less restrictive interventions have failed or are not appropriate. All other suicide protocols shall be followed.

Section 6.[~~Section 3.~~] Protective Custody.

(1) Restrictive housing shall not be used for protective custody.

(2) A juvenile requiring protection from others may be placed in protective custody until alternative permanent housing is found within the facility or the juvenile is transferred to another facility.

(3)[~~(2)~~] The superintendent[~~facility manager~~] or designee may order immediate placement in protective custody[~~ or isolation~~] if it is necessary to protect the juvenile from harm. This action shall be reviewed every twenty-four (24) hours of placement by the superintendent[~~facility manager~~] or designee. Separation from the general population beyond twenty-four (24) hours shall require approval by the superintendent who[~~facility manager and Treatment Director and~~] shall consider any mental health issues of the juvenile. The [~~chief of~~]mental health authority[~~services~~] and a QMHP[~~regional psychologist~~] shall be consulted by the superintendent. The action shall be reviewed by **a**[~~**the** ~~]multidisciplinary[~~treatment~~] team**, composed of at least a DJJ corrections officer or youth worker, the juvenile's counselor, health care staff, and the superintendent or designee,** within seventy-two (72) hours to decide on alternative permanent housing.

(4)[~~(3)~~] A[~~The~~] youth development center treatment team may develop a special management plan to assure the safety of and continuous services and programming for the juvenile.

Section 7. Restrictive Housing for juveniles under 18 U.S.C. § 5043.

(1) If a juvenile is in DJJ custody while being proceeded against in federal district court under 18 U.S.C. § 5043, then a QMHP shall evaluate that juvenile if the juvenile is placed in a restrictive housing placement for three (3) hours.

(2) If the QMHP's evaluation indicates that continued placement in restrictive housing is necessary, then staff shall refer the juvenile to a hospital for admission and treatment.

RANDY WHITE, Commissioner
APPROVED BY AGENCY: January 14, 2026
FILED WITH LRC: January 14, 2026 at 1:11 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goens
Subject Headings: Children and Minors, Juvenile Detention and Justice, Justice and Public Safety
(1) Provide a brief summary of:
(a) What this administrative regulation does: The administrative regulation amendment establishes procedures for restrictive housing and protective custody in juvenile detention centers and youth development centers.

(b) The necessity of this administrative regulation: The administrative regulation amendment is needed to ensure additional safeguards are in place protect the well-being of juveniles placed in restrictive housing and protective custody.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 15A.065 and 15A.305 require the Department of Juvenile Justice (DJJ) to operate and monitor both detention facilities and treatment facilities children across the Commonwealth of Kentucky. KRS 15A.0652, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes procedures for restrictive housing and protective custody in juvenile detention centers and youth development centers operated or monitored by the Department of Juvenile Justice.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes procedures for restrictive housing and protective custody in juvenile detention centers and youth development centers operated or monitored by the Department of Juvenile Justice and will ensure additional safeguards are in place to protect the health, safety, and welfare of juveniles placed in restrictive housing and protective custody.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The administrative regulation amendment installs safeguards to protect the health, safety, and welfare of juveniles placed in restrictive housing and protective custody.
(b) The necessity of the amendment to this administrative regulation: The administrative regulation amendment is needed to ensure additional safeguards are in place protect the well-being of juveniles placed in restrictive housing and protective custody.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 15A.065 and 15A.305 require the Department of Juvenile Justice (DJJ) to operate and monitor both detention facilities and treatment facilities children across the Commonwealth of Kentucky. KRS 15A.0652, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes procedures for restrictive housing and protective custody in juvenile detention centers and youth development centers operated or monitored by the Department of Juvenile Justice.
(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes procedures for restrictive housing and protective custody in juvenile detention centers and youth development centers operated or monitored by the Department of Juvenile Justice and will ensure additional safeguards are in place to protect the health, safety, and welfare of juveniles placed in restrictive housing and protective custody.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect the juveniles in the care or custody of the Department of Juvenile Justice, which is currently approximately 400, and approximately merit employees of the Department of Juvenile Justice, which is currently approximately 1,300.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Juveniles in the care or custody of the Department of Juvenile Justice will have added protection due to the increased safeguards put in place through the administrative regulation amendment. Department of Juvenile Justice staff and employees will be required to implement the newly established procedures that govern the operations of the Department of Juvenile Justice.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): It will not cost the entities identified in question (4) anything to implement the amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): As a result of compliance with the amendment, Department of Juvenile Justice staff and employees will be better able to protect the health, safety and welfare of juveniles placed in restrictive housing and protective custody, which will result in better health, safety, and welfare outcomes to those youth in the care or custody of the Department of Juvenile Justice.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no additional initial costs to the administrative body to implement this administrative regulation amendment as the Department of Juvenile Justice will use existing resources, staff and employees to implement the new safeguards.
(b) On a continuing basis: There will be no additional costs on a continuing basis to the administrative body to implement this administrative regulation amendment as the Department of Juvenile Justice will use existing resources, staff and employees to implement the new safeguards.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The funding source for implementation and enforcement of this administrative regulation is DJJ budgeted funds for the biennium.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will not be an increase in fees or funding necessary to implement this administrative regulation amendment.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation amendment does not establish any fees.
(10) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation amendment because the administrative regulation amendment applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 15A.065 and 15A.305 require the Department of Juvenile Justice (DJJ) to operate and monitor both detention facilities and treatment facilities children across the Commonwealth of Kentucky. KRS 15A.0652, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes procedures for restrictive housing and protective custody in juvenile detention centers and youth development centers operated or monitored by the Department of Juvenile Justice.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 15A.065 and 15A.305 require the Department of Juvenile Justice (DJJ) to operate and monitor both detention facilities and treatment facilities children across the Commonwealth of Kentucky. KRS 15A.0652, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes procedures for restrictive housing and protective custody in juvenile detention centers and youth development centers operated or monitored by the Department of Juvenile Justice.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department of Juvenile Justice
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: There will be no additional expenditures to implement this administrative regulation amendment as the

Department of Juvenile Justice will use existing resources, staff and employees to implement the new safeguards.
For subsequent years: There will be no additional expenditures to implement this administrative regulation amendment as the Department of Juvenile Justice will use existing resources, staff and employees to implement the new safeguards.
2. Revenues:
For the first year: The administrative regulation amendment will not generate revenue.
For subsequent years: The administrative regulation amendment will not generate revenue.
3. Cost Savings:
For the first year: Cost savings are not anticipated.
For subsequent years: Cost savings are not anticipated.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): None
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: No affected local entities have been identified.
For subsequent years: No affected local entities have been identified.
2. Revenues:
For the first year: No affected local entities have been identified.
For subsequent years: No affected local entities have been identified.
3. Cost Savings:
For the first year: No affected local entities have been identified.
For subsequent years: No affected local entities have been identified.
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Juveniles in the in the care or custody of the Department of Juvenile Justice will be affected by this administrative regulation amendment.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: There will be no expenditures for juveniles in the care or custody of the Department of Juvenile Justice. For subsequent years: There will be no expenditures for juveniles in the care or custody of the Department of Juvenile Justice.
For subsequent years: The administrative regulation amendment will not generate revenue.
2. Revenues:
For the first year: The administrative regulation amendment will not generate revenue.
For subsequent years: Cost savings are not anticipated.
3. Cost Savings:
For the first year: Cost savings are not anticipated.
For subsequent years:
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: A fiscal impact to implement this administrative regulation amendment is not anticipated as the Department of Juvenile Justice will use existing resources, staff and employees to implement the new safeguards.
(b) Methodology and resources used to reach this conclusion: Because the Department of Juvenile Justice will use existing resources, staff, and employees to implement this administrative regulation, the Department of Juvenile Justice concluded there will be no fiscal impact.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): An overall negative or adverse major economic impact is not anticipated.
(b) The methodology and resources used to reach this conclusion: The administrative regulation amendment amends an existing administrative regulation. The administrative regulation was reviewed, and an overall negative or adverse major economic impact was not identified as the Department of Juvenile Justice will use existing resources, staff and employees to implement the new safeguards.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Audits and Investigations
(Amended After Comments)

902 KAR 55:015. Schedules of controlled substances.

RELATES TO: KRS 217.005-217.215, 218A.010, 218A.020, 218A.040, 218A.060, 218A.080, 218A.100, 218A.120, 218A.200, 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49, 21 U.S.C. 301 – 399f, [~~801-971~~]
STATUTORY AUTHORITY: KRS 218A.020(1), (3)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.020(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations in order to add, delete, or reschedule substances enumerated in KRS Chapter 218A. KRS 218A.020(3) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to control substances at the state level in the same numerical schedule corresponding to the federal schedule or control a substance in a more restrictive schedule than the federal schedule. This administrative regulation designates Schedule I, II, III, IV, and V drugs. This administrative regulation differs from the federal regulation, 21 C.F.R. 1308.11, because it designates tianeptine and bromazolam as [~~a~~]Schedule I controlled substances[~~substance~~]. The Cabinet for Health and Family Services recognizes that tianeptine and bromazolamhave[~~has~~] no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health. This administrative regulation differs from the federal regulation, 21 C.F.R. 1308.14, because it designates pentazocine, barbital, methylphenobarbital, and phenobarbital as a Schedule III controlled substance. The federal regulation designates these substances as a Schedule IV controlled substance. The Cabinet for Health and Family Services recognizes that pentazocine and derivatives of barbituric acid or its salts have significant abuse potential, and inclusion on Kentucky's Schedule III list will help reduce the risk to public health. This administrative regulation further differs from the federal regulation, 21 C.F.R. 1308.14-1308.15, because it designates nalbuphine as a Schedule IV controlled substance and gabapentin as a Schedule V controlled substance. The Cabinet for Health and Family Services recognizes that nalbuphine and gabapentin have significant abuse potential, and inclusion on Kentucky's controlled substances schedules will help reduce the risk to public health.

Section 1. Schedule I Controlled Substances.
(1) Each substance that is scheduled or designated as a Schedule I controlled substance under 21 C.F.R. 1308.11, including a substance temporarily scheduled or designated under 21 C.F.R. 1308.11(h) or 1308.49, shall be scheduled or designated at the state level as a Schedule I controlled substance.
(2) The Cabinet for Health and Family Services designates the following as [~~a~~]Schedule I controlled substances[~~substance~~]:[~~tianeptine.~~]
(a) tianeptine;
(b) bromazolam**; and**
(c) 7-hydroxymitragynine (7-OH) concentrated at a level above 400 parts per million on a dry weight basis. This designation does not apply to mitragynine.
(3) The following shall be exempt from control as a Schedule I substance:

(a) Cannabis plant material, and products made therefrom, that contain tetrahydrocannabinols pursuant to the exemption established in 21 C.F.R. 1308.35; and

(b) Any substance or product exempt from the definition of marijuana pursuant to KRS 218A.010(27)(a) – (f).

Section 2. Schedule II Controlled Substances. Each substance that is scheduled or designated as a Schedule II controlled substance under 21 C.F.R. 1308.12 shall be scheduled or designated at the state level as a Schedule II controlled substance.

Section 3. Schedule III Controlled Substances.

(1) Except as provided by subsection (2) of this section, each substance that is scheduled or designated as a Schedule III controlled substance under 21 C.F.R. 1308.13 shall be scheduled or designated at the state level as a Schedule III controlled substance.

(2) The Cabinet for Health and Family Services designates the following as Schedule III controlled substances:

(a) Pentazocine;

(b) Barbital;

(c) Methylphenobarbital; and

(d) Phenobarbital.

(3) This section shall not apply to any material, compound, mixture, or preparation containing any quantity of an anabolic steroid substance, or any isomer, ester, salt, or derivative thereof that is:

(a) Expressly intended for administration through implant to livestock or other nonhuman species; and

(b) Approved by the United States Food and Drug Administration for use as described in this subsection.

Section 4. Schedule IV Controlled Substances.

(1) Except as provided by subsection (2) of this section and Section 3(2) of this administrative regulation, each substance that is scheduled or designated as a Schedule IV controlled substance under 21 C.F.R. 1308.14 shall be scheduled or designated at the state level as a Schedule IV controlled substance.

(2) The Cabinet for Health and Family Services designates the following as a Schedule IV controlled substance: nalbuphine.

Section 5. Schedule V Controlled Substances.

(1) Except as provided by subsection (2) of this section, each substance that is scheduled or designated as a Schedule V controlled substance under 21 C.F.R. 1308.15 shall be scheduled or designated at the state level as a Schedule V controlled substance.

(2) The Cabinet for Health and Family Services designates the following as a Schedule V controlled substance: gabapentin.

Section 6. Dispensing Without Prescription. A controlled substance listed in Schedule V, which is not a prescription drug under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 to 399f, may be dispensed by a pharmacist without a prescription to a purchaser at retail, if:

(1) The medicinal preparation contains, in addition to the controlled substances, some drug or drugs conferring upon it medicinal qualities other than those possessed by the controlled substances alone;

(2) Not more than 240cc (eight (8) ounces) or more than forty-eight (48) dosage units of any controlled substance containing opium is dispensed at retail to the same purchaser in any given forty-eight (48) hour period;

(3) The labeling and packaging is in accordance with the current requirements of KRS 217.005 to 217.215, 21 U.S.C. 301 to 399f, and the United States Pharmacopeia;

(4) The preparation is dispensed or sold in good faith as a medicine and not for the purpose of evading the provisions of KRS Chapter 218A;

(5) The preparation is not displayed in areas open to the public;

(6) The dispensing is made only by a pharmacist and not by a nonpharmacist employee even if under the supervision of a pharmacist. After the pharmacist has fulfilled his or her professional and legal responsibilities as set forth in this section, the actual cash, credit transaction, or delivery may be completed by a nonpharmacist;

(7) The purchaser is at least eighteen (18) years of age;

(8) The pharmacist requires every purchaser of a controlled substance under this section not known to the pharmacist to furnish suitable identification, including proof of age if appropriate; and

(9) The dispensing of exempt controlled substances under this administrative regulation is recorded in a bound book that shall be maintained in accordance with the recordkeeping requirements of KRS 218A.200 and contain the:

(a) Name and address of the purchaser;

(b) Name and quantity of controlled substance purchased;

(c) Date of each purchase; and

(d) Name or initials of the pharmacist who dispensed the substance to the purchaser.

TRICIA STEWARD, Inspector General
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: January 6, 2026
FILED WITH LRC: January 9, 2026 at 12:10 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Valerie Moore and Krista Quarles
Subject Headings: Controlled substance
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation designates Kentucky's schedules of controlled substances.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 218A.020.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 218A.020(3), which authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to control substances at the state level in the same numerical schedule corresponding to the federal schedule or control a substance in a more restrictive schedule than the federal schedule.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by designating Kentucky's schedules of controlled substances.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment designates bromazolam as a Schedule I controlled substance. The amended after comments version adds 7-hydroxymitragynine to the list of Schedule I controlled substances. This additional language makes it clear that this scheduling does not apply to mitragynine.
(b) The necessity of the amendment to this administrative regulation: This amendment is in response to a recent request from Van Ingram, Executive Director, Office of Drug Control Policy. Mr. Ingram requested that the cabinet designate bromazolam as a Schedule I controlled substance via emergency administrative regulation. Bromazolam has no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health. Bromazolam was recently banned by two of Kentucky's border states, Virginia and West Virginia. Bromazolam is not approved for use by humans or animals by the FDA. The scheduling of 7-hydroxymitragynine is necessary as this substance has no known medical uses and is considered a substance of great concern by the federal Food and Drug Administration and the Drug Enforcement Agency.
(c) How the amendment conforms to the content of the authorizing statutes: In accordance with KRS 218A.020(5), the Office of Drug Control Policy may request the cabinet to schedule any substance that meets the criteria to be scheduled under KRS Chapter 218A. This amendment conforms to the content of KRS 218A.040 by designating bromazolam and 7-hydroxymitragynine as a Schedule I controlled substance.
(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of KRS 218A.040 by designating bromazolam and 7-hydroxymitragynine as a Schedule I controlled substance.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations,

or state and local governments affected by this administrative regulation: This administrative regulation affects Kentucky's pharmacists and prescribing practitioners. State and local law enforcement agencies would also be impacted.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Bromazolam is not currently prescribed. Pharmacists and doctors should be advised that this drug will now be considered a Schedule I drug. Law enforcement, both local and state, should be advised that possession of this drug without a prescription is subject to laws currently in place regarding possession or sale of an illicit substance. Businesses selling 7-hydroxymitragynine products that exceed 400 parts per million on a dry weight basis will need to remove these products from their shelves and return the products to the distributor.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No costs will be incurred by any entity identified in question (4).
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Bromazolam is not currently a prescription medication in the U.S. It is currently only purchased illegally and is not approved for use in humans or animals by the U.S. Food and Drug Administration (FDA). Bromazolam is a triazolobenzodiazepine, a type of benzodiazepine, that was first synthesized in 1976 but never marketed. It is known as a "designer drug" and has been identified in the illicit drug market. When benzodiazepines like bromazolam are sometimes prescribed for anxiety, insomnia, and other conditions, they can also lead to dependence and have potential side effects. Studies, like those using drug discrimination tests with rats, have shown bromazolam to have a high potential for substitution and abuse, similar to other benzodiazepines. Inclusion on Kentucky's Schedule I list will help reduce the risk to public health by making possession of the drug illegal. Retailers will still be able to offer kratom products and products that contain lower levels of 7-hydroxymitragynine.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There are no additional costs to the Office of Inspector General for implementation of this amendment.
(b) On a continuing basis: There are no additional costs to the Office of Inspector General for implementation of this amendment on a continuing basis.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The source of funding to be used for the implementation and enforcement of this administrative regulation is from general funds.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this amendment.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment does not establish or increase any fees.
(10) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218A.020, 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and Kentucky's pharmacists and prescribing practitioners who rely on state and federal regulations for information regarding scheduled drugs as well as state and local law enforcement agencies and the Department of Corrections. The amended after comments version does not impact the fiscal impact statement.
(a) Estimate the following for the first year:
Expenditures: This amendment will not generate additional revenue for state or local government.
Revenues: This amendment will not generate additional revenue for state or local government.
Cost Savings: This amendment will not generate any cost savings.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? This amendment will not generate additional expenditures, revenue or cost savings for state or local government during subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This amendment should have no effect on local entities.
(a) Estimate the following for the first year:
Expenditures: No additional expenditures are expected from this amendment.
Revenues: No additional revenues are expected as a result of this amendment.
Cost Savings: No additional cost savings is expected as a result of this amendment.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? No additional budgetary impact is expected as a result of this amendment in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3): All affected entities are listed in questions (2) and (3).
(a) Estimate the following for the first year:
Expenditures: No additional expenditures are expected from this amendment.
Revenues: No additional revenues are expected as a result of this amendment.
Cost Savings: No additional cost savings is expected as a result of this amendment.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? No additional budgetary impact is expected as a result of this amendment in subsequent years.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact as a result of the amendment to this regulation.
(b) Methodology and resources used to determine the fiscal impact: No money spent; no money gained equals no fiscal impact.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) This administrative regulation is not expected to have a major economic impact on the regulated entities.
(b) The methodology and resources used to reach this conclusion: No money spent; no money gained equals no fiscal impact.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 21 C.F.R. 1308.11, 1308.12, 1308.13, 1308.14, 1308.15, 1308.35, 1308.49
(2) State compliance standards. KRS 218A.020
(3) Minimum or uniform standards contained in the federal mandate. 21 C.F.R. 1308.11 lists controlled substances that have been classified by the DEA as Schedule I drugs. 21 C.F.R. 1308. Bromazolam is a triazolobendiazepine, a type of benzodiazepine. 21 C.F.R. 1308.49 allows the DEA to place a substance into Schedule I on a temporary basis if such action is necessary to avoid an imminent hazard to the public safety.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes, the federal government has not scheduled this drug; however, the federal government has sent out warnings and is leaving the decision up to states to control. This administrative regulation differs from the federal regulation because it designates bromazolam as a Schedule I controlled substance. Bromazolam is not currently

controlled under the federal Controlled Substances Act. Bromazolam is not a prescription medication and is not approved by the FDA for use in humans or animals. This administrative regulation differs from the federal regulation because it designates bromazolam is not yet regulated by the federal government, although it is not approved for any use by the FDA (5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The cabinet recognizes that bramazolam has no accepted medical use in treatment and inclusion on Kentucky's Schedule I list will help reduce the risk to public health.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

PROPOSED AMENDMENTS

Public comment periods for ordinary, non-emergency regulations are at least two months long. For other regulations with open comment periods, please also see last month's *Administrative Register of Kentucky*.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)

103 KAR 19:010. Computation of income; estates and trusts.

RELATES TO: KRS 141.010, 141.019, 141.020, 141.030, 141.081, 141.190, 141.900
STATUTORY AUTHORITY: KRS 131.130
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Kentucky Department of Revenue to promulgate administrative regulations to prescribe tax return filing requirements for fiduciaries including estates and trusts. This administrative regulation outlines procedure for computing estate and trust income for Kentucky income tax purposes including instructions covering both resident and nonresident situations.

Section 1. Computation of Income. Taxable income of an estate or trust is net income as defined by KRS 141.019 except:
(1) The standard deduction permitted individuals in KRS 141.081 is not allowed;
(2) Federal estate tax paid on income accrued at the date of death of a decedent is deductible;
(3) Deductions that have been allowed on the Kentucky inheritance tax return or the Kentucky individual income tax return may not be claimed on the fiduciary income tax return; and
(4) Any deductions (or federal tax) related to nontaxable income are not allowed.

Section 2. [~~Tax Credits. A trust is allowed a tax credit of two (2) dollars; an estate is allowed a tax credit of ten (10) dollars.~~]

[~~Section 3.~~] Resident Estate or Trust. A resident estate or trust shall report and pay tax on all taxable income except that portion of net income distributable or distributed during the taxable year, and that portion of the net income from intangible personal property attributable to a nonresident beneficiary.

Section 3.[~~Section 4.~~] Resident Beneficiary. A resident beneficiary shall report and pay tax on his share of the distributed or distributable income from a resident or nonresident estate or trust.

Section 4.[~~Section 5.~~] Income from Kentucky Sources. Income from Kentucky sources shall include income arising from all:
(1) Activities carried on in this state, including labor performed or business done in this state;
(2) Services performed in this state;
(3) Real or tangible property located in this state; or
(4) Intangible property that has acquired a business situs in this state.

Section 5.[~~Section 6.~~] Nonresident Estate or Trust. A nonresident estate with gross income for the taxable year from Kentucky sources of $1,200 or more and a nonresident trust with gross income for the taxable year from Kentucky sources of $100 or more shall pay tax on all taxable income from Kentucky sources, except that portion of net income distributable or distributed during the taxable year and that portion of the net income from intangible personal property attributable to a nonresident beneficiary.

Section 6.[~~Section 7.~~] Nonresident Beneficiaries. Nonresident beneficiaries shall pay tax on income derived from Kentucky sources.

THOMAS B. MILLER, Commissioner
APPROVED BY AGENCY: January 8, 2026
FILED WITH LRC: January 13, 2026 at 12:00 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public comment on this administrative regulation shall be held on March 25, 2026, at 10:00 a.m. in Room 11A, State Office Building, 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Gary Morris, Executive Director, Office of Tax Policy and Regulation, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, (502) 564-0424 (telephone), (502) 564-3875 (fax), DORTAXPOLICY@ky.gov (email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gary Morris
Subject Headings: Finance and Administration; Taxation; Wills, Trusts, Estates
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation outlines the procedure for computing estate and trust income for Kentucky income tax purposes.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide guidance for computing income for estates and trusts for income tax purposes.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130 allows the Department of Revenue to promulgate regulations to administer tax laws.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: See the answer to (1)(a).
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment will remove the language regarding tax credits for trusts and estates.
(b) The necessity of the amendment to this administrative regulation: 2022 Ky. Acts ch. 212, sec. 1 removes this tax credit from statute. This amendment will align the regulation with the statute.
(c) How the amendment conforms to the content of the authorizing statutes: See the answers to (2)(a) and (b).
(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure accurate guidance is provided to trusts and estates.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2022 HB 8.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Trusts and estates are affected by this regulation. However, the amendment will remove language that was stricken from

the statute, and the tax credit is not being allowed on returns.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The tax credit has already been removed from tax forms; therefore, the Department of Revenue does not anticipate any impact.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No costs should be incurred to comply with the amendment to this administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No benefits will accrue to the entities identified.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no additional costs associated with implementing the amendment to this administrative regulation.
(b) On a continuing basis: See answer (6)(a).
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: No additional funding will be required to implement the amendment to this administrative regulation.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this administrative regulation.
(10) TIERING: Is tiering applied? Tiering is not applied because all taxpayers computing income for estates and trusts must compute it in the same manner.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 131.130 allows the Department of Revenue to promulgate administrative regulations to administer and enforce all tax laws in this state.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 131.130 authorizes the Department of Revenue to promulgate administrative regulations.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department of Revenue is the promulgating agency and the only agency impacted by this administrative regulation.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year:
For subsequent years:
2. Revenues:
For the first year:
For subsequent years:
3. Cost Savings:
For the first year:
For subsequent years:
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): The amendment to this administrative regulation will not impact local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year:
For subsequent years:
2. Revenues:
For the first year:
For subsequent years:
3. Cost Savings:
For the first year:
For subsequent years:
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): The amendment to this administrative regulation is not anticipated to impact regulated entities.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year:
For subsequent years:
2. Revenues:
For the first year:
For subsequent years:
3. Cost Savings:
For the first year:
For subsequent years:
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: The Department does not anticipate that the amendment to this regulation will have a fiscal impact.
(b) Methodology and resources used to reach this conclusion: This amendment removes the language permitting tax credits for trusts and estates due to a statutory change.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): The amendment to this administrative regulation will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: This amendment updates language to comply with a statutory change.

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amendment)

105 KAR 1:160. Sick leave plans.

RELATES TO: KRS 61.546, 61.5525, 78.616, 161.155
STATUTORY AUTHORITY: KRS 61.505(1)(g)[~~61.645(9)(e)~~]
CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g)[~~61.645(9)(e)~~] authorizes the[~~Board of Trustees of~~] Kentucky Public Pensions Authority, on behalf of County Employees Retirement System and Kentucky Retirement Systems,[~~Retirement Systems~~] to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 61.546 provides for retirement service credit for unused sick leave for members of the Kentucky Employees Retirement System and the State Police Retirement System who began participating before January 1, 2014. KRS 78.616 provides for retirement service credit for unused sick leave for members of the County Employees Retirement System who began participating before January 1, 2014. This administrative regulation establishes the requirements for participation in the program by individual county agencies, calculation of the service credit, and payment of the employer's cost of the credit. This administrative regulation also establishes the formula for prorating sick leave if it is earned by a member partly under SPRS, partly under KRS hazardous duty coverage, and partly under the Kentucky Employees Retirement System nonhazardous coverage. This administrative regulation also establishes when service credit due to sick leave may be used to calculate health insurance payments under KRS 61.702 or 78.5536.

Section 1. Definitions.
(1) "Alternate plan" means the sick leave program established[~~described~~] in KRS 78.616(5).
(2) "Standard plan" means the sick leave program established[~~described~~] in KRS 61.546 or 78.616(1), (3) and (4).

Section 2. An employer[~~agency~~] participating in the County Employees Retirement System:

(1) May[~~may~~] provide a sick leave program under KRS 78.616 by adopting an order appropriate to the employer;[~~agency.~~]

(a)[~~(1)~~] Shall offer only[~~Only~~] one (1) sick leave program under KRS 78.616 to its employees;[~~shall be offered to the employees of an agency.~~]

(b)[~~(2)~~] Shall[~~The agency shall~~] certify to the agency[~~retirement system~~] that the program shall be universally administered;[~~.~~]

(c)[~~(3)~~] Shall[~~The agency shall~~] pay all costs of the program; and[~~.~~]

(d)[~~(4)~~] Shall[~~The agency shall~~] certify to the agency[~~retirement system~~] the number of hours that constitutes a regular working day for its employees[~~of the agency~~].

(2)[~~(5)~~]

(a) If an employer[~~agency~~] participating in the County Employees Retirement System has no retirement sick leave program, it may choose the standard plan or it may choose the alternate plan.

1. An employer[~~agency~~] adopting the standard plan may elect to purchase credit:

a. Only[~~To purchase credit only~~] for the first six (6) months of accrued sick leave;

b. For[~~To purchase credit for~~] the first six (6) months and to pay fifty (50) percent of the cost for service above six (6) months; or

c. For[~~To purchase credit for~~] all accumulated sick leave.

2. An employer[~~agency~~] which elects to pay only for the first six (6) months of accumulated sick leave may at a later date elect to pay fifty (50) percent or all of the cost of service above six (6) months. An employer[~~agency~~] which elects to pay for the first six (6) months and fifty (50) percent of the cost for service above six (6) months, may at a later date elect to pay for all accrued sick leave.

3. If an employer[~~the agency~~] adopted the standard plan prior to July 1988, it may choose to adopt the alternate plan.

4. Within thirty (30) days of adoption of a sick leave plan, the employer[~~agency~~] shall file at the agency[~~retirement office~~] a description of the employer's[~~agency's~~] sick leave policy which shall specify:

a. The maximum sick leave that may be accrued;

b. Whether the policy applies to sick leave accrued prior to the adoption of the sick leave plan; and

c. Whether the policy applies to current and former employees or only to employees who retire from the employer[~~agency~~].

(b) Employers[~~Agencies~~] participating in the Kentucky Employees Retirement System or the State Police Retirement System shall provide sick leave credit for all accrued sick leave.

(c) Once a sick leave program is adopted, the employer[~~agency~~] shall continue to offer a sick leave program to its employees.

Section 3. If an employer[~~the agency~~] adopts the standard plan, upon a member's retirement:

(1) Each employer[~~agency~~] participating in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System with which the member has accrued sick leave credit or to which their[~~his~~] accrued sick leave transferred, shall certify the unused sick leave credit which the member has accrued on Sick Leave Authorization, Form 6500.

(2)

(a) The agency[~~retirement system~~] shall determine the number of days of credit and divide the number of days by twenty-one (21), the average number of working days in a month, unless the employer[~~agency~~] verifies an alternate number of average working days per month. If the remainder is equal to or greater than eleven (11), the member shall receive credit for an additional month. If an employee has an alternate work schedule, the employer[~~agency~~] shall verify an alternate number of average working days per month.

(b) For each employer[~~agency~~] participating in the Kentucky Employees Retirement System or County Employees Retirement System with which the member accrued sick leave credit, the cost of the credit, determined by utilizing the member's final compensation with the formula established[~~described~~] in KRS 61.552(10)(a)[~~61.5525~~], shall be paid by the employer[~~agency~~] within thirty (30) days of notification by the agency[~~retirement system~~].

(c) If the member accrued sick leave credit in the Kentucky Employees Retirement System, the last employer[~~agency~~] with which the member was employed shall pay the cost of sick leave credit[~~in excess of six (6) months, if any~~]. If the member has multiple last employers, the cost due from the last employers under this subsection shall be equally apportioned between them.

(3)

(a) If the total sick leave accrued at a County Employees Retirement System employer[~~agency~~] is greater than six (6) months and the employer[~~agency~~] does not pay for service greater than six (6) months, the employee may purchase some or all of the additional months by paying the cost, determined by utilizing the member's final compensation with the formula established[~~described~~] in KRS 61.552(10)(a)[~~61.5525~~], to the agency[~~retirement system~~] before their[~~his~~] termination, but no earlier than three (3) months from their[~~his~~] effective retirement date.

(b) If the total sick leave accrued at a County Employees Retirement System employer[~~agency~~] is greater than six (6) months and the employer[~~agency~~] pays fifty (50) percent of the cost of additional months, the employee shall receive credit for all or some of the additional months if the employee pays fifty (50) percent of the cost determined by utilizing the member's final compensation with the formula established[~~described~~] in KRS 61.552(10)(a)[~~61.5525~~], to the agency[~~retirement system~~] before their[~~his~~] termination, but no earlier than three (3) months from their[~~his~~] effective retirement date, and the employer pays the remaining fifty (50) percent.

Section 4. Alternate Sick Leave Plans. An employer[~~agency~~] adopting the alternate plan shall also certify the maximum number of sick leave days that an employee may accumulate prior to termination.

(1) The employer[~~agency~~] shall compensate the member for all accrued sick leave up to the maximum allowed, upon termination. If the employee is a classified employee of a school board, the employer[~~agency~~] shall compensate the employee for accrued sick leave, upon the employee's retirement or death, pursuant to KRS 161.155. The rate of compensation for each day shall be based on the employee's current rate of pay.

(2) Each month, the employer[~~agency~~] shall withhold employer and employee contributions from the sick leave compensation of employees who terminate, and shall remit the contributions along with the Form 6501 for each employee. The forms and contributions deducted during the month shall be sent to the agency[~~retirement office~~] within ten (10) days following the end of the month. The contributions and compensation shall not be reported with the regular payroll.

(3) If the member has one (1) or more months of service credit as determined in Section 3 of this administrative regulation, the service shall be added to the member's total service credit.

(4) Compensation and service shall be included in the member's final compensation as established in this subsection.[~~follows:~~]

(a) The member's sick leave credit expressed in months and the compensation for those months shall be included in the fiscal year with the highest average monthly salary used in their[~~his~~] final compensation until the service credit in the fiscal year has reached twelve (12) months.

(b) When service credit in the fiscal year with the highest average monthly salary has reached twelve (12) months, the remaining months of service and compensation shall be included in the fiscal year with the lowest average monthly salary used in their[~~his~~] final compensation until service credit in the fiscal year has reached twelve (12) months.

(c) When service credit in the two (2) fiscal years with the highest and lowest average monthly salary used in their[~~his~~] final compensation has[~~have~~] reached twelve (12) months, the remaining months and compensation shall be used in lieu of the member's service and salary in the fiscal year with the lowest average monthly salary of the member's[~~members~~] final compensation. The salary replaced shall be the monthly average of the member's actual salary in the fiscal year.

Section 5. An employee who has service credit in the Kentucky Employees Retirement System as hazardous and nonhazardous, or who has service credit in both the Kentucky Employees Retirement System and the State Police Retirement System, shall have accrued sick leave prorated between the systems and between the hazardous and nonhazardous accounts based on the ratio of service in each account, including purchased service, and to the total service credit.

Section 6. Use of Sick Leave in Calculating Months of Service for Health Insurance Benefits.

(1) Unless otherwise prohibited by statute or this section, service credit attributable to sick leave shall be used to calculate health insurance benefits pursuant to KRS 61.702 or 71.5536 in the same manner as the credit is used to calculate eligibility for retirement benefits.

(2) Service credit attributable to sick leave shall not be used to determine whether a member with service in a:

(a) Nonhazardous position meets the minimum service requirements of "career threshold" as defined by KRS 61.702(4)(e)9. or KRS 78.5536(4)(e)9.; and

(b) Hazardous position meets the minimum service requirements of "career threshold" as defined by KRS 61.702(4)(e)9. or 78.5536(4)(e)9. if the member began membership on or after September 1, 2008.

(3) A member who otherwise qualifies for career threshold status shall have the service credit attributable to sick leave used to calculate any insurance contribution due pursuant to KRS 61.702(4)(e)6.b. or 78.5536(4)(e)6.b. for service as a participating employee beyond the career threshold.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 6500, "Sick Leave Authorization", KPPA, 1/2026[~~11/00~~]; and

(b) Form 6501, "Alternate Sick Leave Authorization", KPPA, 1/2026[~~11/00~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Public Pensions Authority[~~Retirement Systems, Perimeter Park West~~], 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or on the agency's website at kyret.ky.gov.

RYAN BARROW, Executive Director

APPROVED BY AGENCY: December 10, 2025

FILED WITH LRC: January 9, 2026 at 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, March 23, 2026 at 10:00 a.m. Eastern Time at the Kentucky Public Pensions Authority (KPPA), 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in presenting a public comment at this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026 and shall receive the same consideration as verbal comments. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. KPPA shall file a response with the Regulations Compiler to any public comments received, whether at the public comment hearing or in writing, via a Statement of Consideration no later than the 15th day of the month following the end of the public comment period, or upon filing a written request for extension, no later than the 15th day of the second month following the end of the public comment period.

CONTACT PERSON: Carole J. Catalfo, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 696-8679, Fax (502) 696-8615, Email: Legal.Non-Advocacy@kyret.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo

Subject Headings: Boards and Commissions, Health Benefit Plans, Retirements and Pensions, State Employee Health Plans, State Employees, State Police

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for participation in the program by individual county agencies, calculation of service credit, and payment of the employer's cost of the credit; it also establishes the formula for prorating sick leave if it is earned by a member partly under SPRS, partly under KERS hazardous duty coverage, and partly under the KERS nonhazardous coverage; and it establishes the formula for use of sick leave in calculating months of service for health insurance benefits.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements for participation in the program by individual county agencies, calculation of service credit, and payment of the employer's cost of the credit; to establish the formula for prorating sick leave if it is earned by a member partly under SPRS, partly under KERS hazardous duty coverage, and partly under the KERS nonhazardous coverage; and the formula for use of sick leave in calculating months of service for health insurance benefits.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.505(1)(g) authorizes the Board of Trustees of Kentucky Public Pensions Authority to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, and 16.510 to 16.652. KRS 61.546 provides for retirement service credit for unused sick leave for members of the Kentucky Employees Retirement System and the State Police Retirement System who began participating before January 1, 2014. KRS 78.616 provides for retirement service credit for unused sick leave for members of the County Employees Retirement System who began participating before January 1, 2014. This administrative regulation establishes the requirements for participation in the program by individual county agencies, calculation of the service credit, and payment of the employer's cost of the credit. This administrative regulation also establishes the formula for prorating sick leave if it is earned by a member partly under SPRS, partly under KRS hazardous duty coverage, and partly under the Kentucky Employees Retirement System nonhazardous coverage, and the formula for use of sick leave in calculating months of service for health insurance benefits.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the requirements for participation in the program by individual county agencies, calculation of service credit, and payment of the employer's cost of the credit; establishing the formula for prorating sick leave if it is earned by a member partly under SPRS, partly under KERS hazardous duty coverage, and partly under the KERS nonhazardous coverage; and the formula for using sick leave to calculate months of service for health insurance benefits.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation updates statutory references and materials incorporated by reference, aligns language with KRS Chapter 13A drafting requirements, clarifies retirement service credit for unused sick leave for members who started participating prior to January 1, 2014, and establishes the formula for the use of sick leave to calculate months of service for health insurance benefits.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to update statutory references and materials incorporated by reference, align language with KRS Chapter 13A drafting requirements, clarify retirement service credit for unused sick leave for members who

started participating prior to January 1, 2014, and establish the formula for the use of sick leave to calculate months of service for health insurance benefits.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 61.505(1)(g) authorizes the Board of Trustees of Kentucky Public Pensions Authority to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, and 16.510 to 16.652. KRS 61.546 provides for retirement service credit for unused sick leave for members of the Kentucky Employees Retirement System and the State Police Retirement System who began participating before January 1, 2014. KRS 78.616 provides for retirement service credit for unused sick leave for members of the County Employees Retirement System who began participating before January 1, 2014. This administrative regulation establishes the requirements for participation in the program by individual county agencies, calculation of the service credit, and payment of the employer's cost of the credit. This administrative regulation also establishes the formula for prorating sick leave if it is earned by a member partly under SPRS, partly under KRS hazardous duty coverage, and partly under the Kentucky Employees Retirement System nonhazardous coverage, and the formula for use of sick leave in calculating months of service for health insurance benefits.
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist in the effective administration of the statutes by updating statutory references and materials incorporated by reference, aligning language with KRS Chapter 13A drafting requirements, clarifying retirement service credit for unused sick leave for members who started participating prior to January 1, 2014, and establishing the formula for the use of sick leave to calculate months of service for health insurance benefits.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? {If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.) KRS 61.505 - Amended 2024 Ky. Acts ch. 55, sec. 1, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 28, sec. 1, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 2, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 76, effective April 1, 2021. -- Created 2020 Ky. Acts ch. 79, sec. 2, effective April 1, 2021. KRS 61.546 - Repealed, reenacted, and amended 2024 Ky. Acts ch. 55, sec. 7, effective July 15, 2024. KRS 61.702 - Repealed and reenacted with all new language in 2021 Ky. Acts ch. 102, sec. 73 and amended in 2021 Ky. Acts ch. 106, sec. 4. KRS 78.5536 - Amended 2025 Ky. Acts ch. 37, sec. 1, effective June 27, 2025. -- Amended 2024 Ky. Acts ch. 55, sec. 22, effective July 15, 2024. -- Amended 2022 Ky. Acts ch. 152, sec. 3, effective July 14, 2022; and ch. 216, sec. 23, effective April 14, 2022. -- Created 2021 Ky. Acts ch. 102, sec. 14, effective April 1, 2021. KRS 78.616 - Amended 2021 Ky. Acts ch. 102, sec. 23, effective April 1, 2021.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 433,461 participants in the Kentucky Employees Retirement System, the State Police Retirement System, and the County Employees Retirement System.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The regulated community will not need to take any additional actions and will be minimally impacted because the administrative regulation is already being implemented as written.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional costs to comply with the amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated community will benefit from updated statutory references and materials incorporated by reference, language that aligns with KRS Chapter 13A drafting requirements, clarified retirement service credit for unused sick leave for members who started participating prior to January 1, 2014, and a formula for the use of sick leave to calculate months of service for health insurance benefits.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no additional costs because the regulation is already being implemented as written.
(b) On a continuing basis: There will be no additional costs because the regulation is already being implemented as written.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No, an increase in fees or funding will not be necessary.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Yes, tiering is applied to the extent that this administrative regulation applies to members who began participating in a state-administered retirement system before January 1, 2014.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 61.505(1)(g), 61.546, 78.616
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 61.505(1)(g), 61.546, 78.616
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Public Pensions Authority. There are no other affected state units, parts, or divisions. (b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): There are no additional affected regulated entities.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.

For subsequent years: None.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This administrative regulation has minimal fiscal impact. It is already being implemented as written.
(b) Methodology and resources used to reach this conclusion: The agency analyzed its costs and procedures for calculating and administering retirement service credit and health benefits for unused sick leave, and prorating sick leave when earned under different systems and classifications.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No, this administrative regulation will not have a major economic impact as defined by KRS 13A.010(14).
(b) The methodology and resources used to reach this conclusion: The agency analyzed its costs and procedures for calculating and administering retirement service credit and health benefits for unused sick leave, and prorating sick leave when earned under different systems and classifications.

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amendment)

105 KAR 1:170. Membership form requirements.

RELATES TO: KRS 16.530, 61.525, 61.526, 61.540, 61.542, 61.545, 61.625, 78.540

STATUTORY AUTHORITY: KRS 61.505(1)(g)[61.645(9)(e)], 26 C.F.R. 1.401-1(b)(1)(i), 26 U.S.C. 401(a)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g)[61.645(9)(e)] authorizes the[Board of Trustees of] Kentucky Public Pensions Authority[Retirement Systems] to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 16.530, 61.526 and 61.540 require a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System to file information with the Kentucky Public Pensions Authority[Board of Trustees] as a condition of membership. KRS 61.542 requires a member to file a designation of beneficiary. KRS 61.625 establishes the conditions under which a member may apply for a refund. KRS 78.545 requires that designations of beneficiaries and refunds for County Employees Retirement System members be administered in the same manner as for Kentucky Employees Retirement System members. 26 U.S.C. 401(a) provides that a qualified pension plan cannot make distributions prior to normal retirement age if a separation from service has not occurred. This administrative regulation establishes the information and forms required for membership,[and establishes] that the member shall not receive a refund unless the member has terminated employment, when a member serving simultaneously in hazardous and nonhazardous positions may make an irrevocable election to participate only in the hazardous plan, and how to update member contact information with the agency.

Section 1. An employee eligible for participation on the date their employer[his agency] first participates shall complete a "Form 2010, Election or Rejection of Participation", designating their[his] desire to participate in or waive participation and benefits in the retirement system. The original form shall be kept on file at the agency[in the retirement office].

Section 2. Within thirty (30) days of participation, an employee who is required to participate or who elects to participate may[shall] complete a "Form 2001, Membership Information". The membership form shall be kept on file at the agency[in the retirement office].

Section 3. An employee shall file with the agency a valid[may also complete a] "Form 2035, Beneficiary Designation" to designate or change a beneficiary prior to retirement. If a valid beneficiary designation is not on file at the agency the employee's estate shall be the beneficiary[which shall be sent to the retirement office].

Section 4.
(1) If an employee is participating in a hazardous position, as defined by KRS 61.592, that meets the definition of a regular full-time position under KRS 61.510(21) or 78.510(21) based solely upon their service in a hazardous position, and is simultaneously employed in a nonhazardous position with a different participating employer that would not be considered a regular full-time position based solely upon their service in the nonhazardous position, the employee may make a one (1) time irrevocable election within thirty (30) days of employment in the nonhazardous position to not participate in the system for their employment in the nonhazardous position with that employer by filing with the agency a valid Form 2014, Rejection of Nonhazardous Part-Time Participation[If an employee is simultaneously eligible to participate in more than one (1) of the Kentucky Retirement Systems, the employee may elect to participate in only one (1) system and waive participation in and any rights to benefits from the employment in the other system during the period of simultaneous employment].
(2) [The employee shall notify the retirement system in writing of his intent to exercise this right under KRS 61.545(3). Upon receipt of the notification, the retirement system shall provide the employee with an estimate of the benefits that may be forfeited by the employee and the "Form 2026, Simultaneous Employment Choice of Systems", necessary for making an election.]
[(3)] If the employee does not make an election pursuant to subsection 1 of this section[complete and return the form], the employee shall participate in both systems simultaneously and their[his] service shall be prorated between the systems pursuant to 105 KAR 1:320 Section 2[based on his ratio of his creditable compensation in each system to his total creditable compensation from all systems].
(3)[(4)] If the employee makes an election pursuant to subsection 1 of this section[submits the completed form], the employer that participates in the system in which the employee rejected participation shall be notified that it shall not report creditable compensation or contributions on the employee while the member is employed by the nonhazardous employer[for the period of simultaneous employment]. If contributions were reported prior to the employee making an election[receipt of the form], the employer and employee contributions shall be refunded to the employer and employee and all service credit under that system shall be deleted from the employee's account for the period of simultaneous employment.

Section 5. Pursuant to KRS 61.625, a former[an] employee who is not eligible to retire[vested for monthly benefits] may request a refund of their[his] account by filing with the agency a valid completing and returning a "Form 4525, Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection". The agency[Kentucky Retirement Systems] shall not issue a refund to a member unless the member has terminated employment with all employers participating in the retirement system from which the member is attempting to take a refund[his employer].

Section 6.
(1) A member may update their contact information on file with the agency:
(a) On the Self-Service website at http://myretirement.ky.gov;
(b) By telephone with an agency-issued PIN; or
(c) By submitting a valid Form 2040, Change of Contact Information.
(2) An attorney in fact, guardian, or other fiduciary shall file a valid Form 2040 with the agency to change contact information on behalf of a member.

Section 7. Incorporation by Reference.
(1) The following material is incorporated by reference:

(a) Form 2010, "Election or Rejection of Participation", KPPA, 1/2026[~~12/2006~~];

(b) Form 2001, "Membership Information", KPPA, 1/2026[~~2/02~~];

(c) Form 2035, "Beneficiary Designation", KPPA, 1/2026[~~6/03~~];

(d) [~~Form 2026, "Simultaneous Employment Choice of Systems", 5/98; and~~]

[~~(e)~~] Form 4525, "Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection", KPPA, 1/2026;[~~5/08.~~]

(e) Form 2040, "Change of Contact Information", KPPA, 1/2026; and

(f) Form 2014, Rejection of Nonhazardous Part-Time Participation, 1/2026.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, from the Kentucky Public Pensions Authority[~~Retirement Systems office at Perimeter Park West~~], 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or on the agency's website at kyret.ky.gov.

RYAN BARROW, Executive Director

APPROVED BY AGENCY: December 10, 2025

FILED WITH LRC: January 9, 2026 AT 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, March 23, 2026 at 10:00 a.m. Eastern Time at the Kentucky Public Pensions Authority (KPPA), 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in presenting a public comment at this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026 and shall receive the same consideration as verbal comments. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. KPPA shall file a response with the Regulations Compiler to any public comments received, whether at the public comment hearing or in writing, via a Statement of Consideration no later than the 15th day of the month following the end of the public comment period, or upon filing a written request for extension, no later than the 15th day of the second month following the end of the public comment period.

CONTACT PERSON: Carole J. Catalfo, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 696-8679, Fax (502) 696-8615, Email: Legal.Non-Advocacy@kyret.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo

Subject Headings: Boards and Commissions, Deaths, Local Governments, Retirements and Pensions, State Employees, State Police

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the information required for membership, that the member shall not receive a refund unless the member has terminated employment, when a member serving simultaneously in hazardous and nonhazardous positions may make an irrevocable election to participate only in the hazardous plan, and how to update member contact information with the agency.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish information required for membership, that members shall not receive a refund unless the member has terminated employment, when a member serving simultaneously in hazardous and nonhazardous positions may make an irrevocable election to participate only in the hazardous plan, and how to update member contact information with the agency.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.505(1)(g) authorizes the Board of Trustees of Kentucky Public Pensions Authority to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 16.530, 61.526 and 61.540 require a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System to file information with the Kentucky Public Pensions Authority as a condition of membership. KRS 61.542 requires a member to file a designation of beneficiary. KRS 61.625 establishes the conditions under which a member may apply for a refund. 26 U.S.C. 401(a) provides that a qualified pension plan cannot make distributions prior to normal retirement age if a separation from service has not occurred.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing information required for membership, that members shall not receive a refund unless the member has terminated employment, when a member serving simultaneously in hazardous and nonhazardous positions may make an irrevocable election to participate only in the hazardous plan, and how to update member contact information with the agency.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation clarifies when and how an employee simultaneously employed in hazardous and nonhazardous positions with different employers may make an irrevocable choice not to participate in the nonhazardous system, clarifies how a former employee who is ineligible for retirement may request a refund of their account, clarifies how a member or a fiduciary can update their contact information with the agency, updates and corrects statutory references, updates materials incorporated by reference, and aligns language with KRS Chapter 13A drafting requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to clarifies when and how an employee simultaneously employed in hazardous and nonhazardous positions with different employers may make an irrevocable choice not to participate in the nonhazardous system, clarifies how a former employee who is ineligible for retirement may request a refund of their account, clarifies how a member or a fiduciary can update their contact information with the agency, updates and corrects statutory references, updates materials incorporated by reference, and aligns language with KRS Chapter 13A drafting requirements. (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.505(1)(g) authorizes the Board of Trustees of Kentucky Public Pensions Authority to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 16.530, 61.526 and 61.540 require a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System to file information with the Kentucky Public Pensions Authority as a condition of membership. KRS 61.542 requires a member to file a designation of beneficiary. KRS 61.625 establishes the conditions under which a member may apply for a refund. 26 U.S.C. 401(a) provides that a qualified pension plan cannot make distributions prior to normal retirement age if a separation from service has not occurred.

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

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist in the effective administration of the statutes by clarifying when and how an employee simultaneously employed in hazardous and nonhazardous positions with different employers may make an irrevocable choice not to participate in the nonhazardous system, clarifying how a former employee who is ineligible for retirement may request a refund of their account, clarifying how a member or a fiduciary can update their contact information with the agency, updating and correcting statutory references, updating materials incorporated by reference, and aligning language with KRS Chapter

13A drafting requirements.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? (If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.) KRS 61.505 - Amended 2024 Ky. Acts ch. 55, sec. 1, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 28, sec. 1, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 2, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 76, effective April 1, 2021. -- Created 2020 Ky. Acts ch. 79, sec. 2, effective April 1, 2021. KRS 61.526 - Amended 2021 Ky. Acts ch. 102, sec. 46, effective April 1, 2021. KRS 61.540 - Amended 2021 Ky. Acts ch. 96, sec. 2, effective June 29, 2021; and ch. 102, sec. 47, effective April 1, 2021. KRS 61.542 - Amended 2021 Ky. Acts ch. 96, sec. 3, effective June 29, 2021; and ch. 102, sec. 48, effective April 1, 2021. KRS 61.625 - Amended 2024 Ky. Acts ch. 55, sec. 11, effective July 15, 2024. KRS 78.545 - Amended 2021 Ky. Acts ch. 102, sec. 20, effective April 1, 2021.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects the Kentucky Public Pensions Authority and, of the approximately 433,461 participants in the Kentucky Employees Retirement System, the State Police Retirement System, and the County Employees Retirement System, those participants who may be able to elect a plan based on their simultaneous hazardous and nonhazardous positions, those who are not eligible for retirement but want a refund of their account, or those who need to update their contact information with the agency.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The regulated community will be minimally impacted because the administrative regulation is already being implemented as written. The amendments are primarily technical in nature and aligns the administrative regulation with current technology and processes.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional costs to comply with the amendment because it is already being implemented as written. The amendment is primarily technical in nature.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated community will benefit from clarity regarding when and how an employee simultaneously employed in hazardous and nonhazardous positions with different employers may make an irrevocable choice not to participate in the nonhazardous system, how a former employee who is ineligible for retirement may request a refund of their account, how a member or a fiduciary can update their contact information with the agency, and having updated forms that have been incorporated by reference and align with current technology and procedures.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no additional costs because the regulation is already being implemented as written.
(b) On a continuing basis: There will be no additional costs because the regulation is already being implemented as written.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No, an increase in fees or funding will not be necessary.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? No, tiering is not applied. The processes and procedures are the same for all employees who want to select their participation in a plan based on simultaneous hazardous and nonhazardous positions with different participating employers, former employees who are ineligible for retirement but want a refund of their account, and for those who want to update their contact information with the agency.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: . KRS 61.505(1)(g), 26 C.F.R. 1.401-1(b)(1)(i), 26 U.S.C. 401(a)
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 61.505(1)(g)
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Public Pensions Authority. There are no other affected state units, parts, or divisions. (b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: N/A.
For subsequent years: N/A.
2. Revenues:
For the first year: N/A.
For subsequent years: N/A.
3. Cost Savings:
For the first year: N/A.
For subsequent years: N/A.
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): There are no additional regulated entities.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: N/A.
For subsequent years: N/A.
2. Revenues:
For the first year: N/A.
For subsequent years: N/A.
3. Cost Savings:
For the first year: N/A.
For subsequent years: N/A.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This administration establishes membership form requirements and has minimal fiscal impact.
(b) Methodology and resources used to reach this conclusion: The agency analyzed costs, procedures, and forms for employees who are simultaneously employed in hazardous and nonhazardous positions with different employers making an irrevocable choice not to participate in the nonhazardous system, how a former employee who is ineligible for retirement may request a refund of their account, and how a member or a fiduciary can update their contact information with the agency.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No, this administrative

regulation will not have a major economic impact as defined by KRS 13A.010(1).
(b) The methodology and resources used to reach this conclusion: The agency analyzed costs, procedures, and forms for employees who are simultaneously employed in hazardous and nonhazardous positions with different employers making an irrevocable choice not to participate in the nonhazardous system, how a former employee who is ineligible for retirement may request a refund of their account, and how a member or a fiduciary can update their contact information with the agency.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 26 C.F.R. 1.401-1(b)(1)(i), 26 U.S.C. 401(a)
(2) State compliance standards. KRS 16.530, 61.525, 61.526, 61.540, 61.542, 61.545, 61.625, 78.540
(3) Minimum or uniform standards contained in the federal mandate. 26 C.F.R. 1.401-1(b)(1)(i)26 defines and distinguishes defined benefit pension plans from other financial retirement mechanisms, generally based on compensation and years of service and unrelated to profits of an employer. U.S.C. 401(a) provides that a qualified pension plan cannot make distributions prior to normal retirement age if a separation from service has not occurred.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation complies with the federal law.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose a stricter standard, or additional or different responsibilities or requirements than federal law.

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amendment)

105 KAR 1:330. Purchase of service credit.

RELATES TO: KRS 16.545,16.645, 61.505, 61.543, 61.552, 61.592, 78.5520, 61.685, 78.545, 78.610, 26 U.S.C. 415
STATUTORY AUTHORITY: KRS 61.545(9)(e), 61.505(1)(f) and (1)(g)
CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(f) and (1)(g) and 61.645(9)(e) authorize[authorizes] the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510[[20]] to 78.852. KRS 16.545,16.645, 61.543, 61.552, 61.592, 78.5520, 61.685, 78.545, and 78.610 provide for purchasing service credit and out-of-state service credit for Kentucky Employees Retirement Systems members. KRS 16.645(19) and 78.545(7) provide that purchase of service credit for members of the State Police Retirement System and County Employees Retirement System, respectively, shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System. 26 U.S.C. 415 establishes federal requirements regarding purchases of service credit. This administrative regulation establishes the requirements and forms for eligibility and purchase of[documentation required from the employee or person as proof of eligibility for purchasing] service credit, and the filing deadlines on which the cost calculation will be made[, and the procedures for purchase of service credit].

Section 1. [Definitions.]
[(1)] [Unless otherwise defined in this section, the definitions contained in KRS 16.505, 61.510, and 78.510 shall apply to this administrative regulation.]

[(2)] [Prior to April 1, 2021, "agency" means the Kentucky Retirement Systems, which administers the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System. Effective April 1, 2021, "agency" means the Kentucky Public Pension Authority, which is authorized to carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.]
[(3)] ["File" means delivering or submitting a form to the retirement office by mail, fax, secure email, in-person delivery, or upload via Self Service on the Web site maintained by the agency (if available). A form shall not be deemed filed until it has beenreceived at the retirement office.]
[(4)] ["Provide" means the agency makes a form or document available to a member, retired member, or person by mail, fax, secure email, or upload via Self Service on the Web site maintained by the agency (if available).]
[(5)] ["Systems" means the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.]
[(6)] ["Valid" means that all required sections on a form are completed and all required signatures on a form are executed.]

[Section 2.] Cost Calculation Date for Determining the Cost of the Service Purchase.
(1) The cost calculation date for determining the cost of the service to be purchased shall be the later of the last day of the month:
(a) In[The last day of the month in] which the request for the cost of the service is filed at the agency[retirement office];
(b) The[last day of the month the] employee or person designates as the intended purchase date;
(c) In[The last day of the month in] which documentation of the service is filed at the agency[retirement office];
(d) In[The last day of the month in] which the employee attains sufficient service credit to be eligible to make the purchase; or
(e) In[The last day of the month in] which the employee terminates employment if the employee files a completed Form 4172, Notice of Intent to Transfer Lump Sum Payment(s) to Qualified Employer Sponsored Plan, at the agency[retirement office] indicating that the employee intends to defer the employee's lump sum payment for accrued compensatory and annual leave to be paid to the employee at termination to the Kentucky Public Employees Deferred Compensation Authority or other qualified employer sponsored plan. The employee shall then rollover the funds from the Kentucky Public Employees Deferred Compensation Authority or other qualified employer sponsored plan to the agency as payment, in whole or in part, for the employee's service purchase.
(2)
(a) The purchase deadline date shall be the later of the end of the day as defined by 105 KAR 1:001 on the cost calculation date or thirty (30) days from the date the purchase cost is provided to the employee[, unless day thirty (30) is a Saturday, Sunday, a public holiday listed in KRS 2.110, a day on which the public office is actually and legally closed, or any other federal or state holiday that disrupts mail service, then the purchase deadline date shall be the next business day].
(b) Upon discovery of a delay in providing the purchase cost to the employee or person, the agency may extend the purchase deadline date in paragraph (a).
(3) An employee or person shall not make a new request for cost calculation for purchase of service previously requested until the purchase deadline date has passed.
(4) Payment for purchase of service credit shall be filed at the agency[retirement office] while the employee is participating in an eligible retirement system and prior to the employee's termination date, except if the:
(a) Purchase[If the purchase] of service credit is made pursuant to KRS 61.552(2)(a)[under KRS 61.552(2)];
(b) Employee[If the employee] files a Form 4170, Direct Transfer/Rollover Authorization Form, at the agency[retirement office] while the employee is participating in an eligible retirement

system and prior to the employee's termination date, and[~~so long as~~] the financial institution completes the transfer or rollover within sixty (60) days of the payment due date, the payment for purchase of service credit by transfer or rollover may occur when the employee is no longer participating in an eligible retirement system and after the employee's termination date; or

(c) Agency[~~If the agency~~] discovers an error or omission in the service purchase cost the:[~~,~~]

1. Agency[~~then the agency~~] may provide corrected costs to the employee, person, member, or retired member; and[~~,~~]

2. Employee[~~to have the service purchase credited to his or her account, the employee~~], person, member, or retired member shall pay any additional amount due for the corrected costs to have the service purchase credited to their account.

(5) If the employee elects to purchase only a portion of the service for which they have[~~he or she has~~] requested a cost calculation, the employee shall be required to obtain a new cost calculation for the remaining service unless the remaining service is service pursuant to[~~under~~] KRS 61.552(2) or (3).

Section 2.[~~Section 3.~~] General Requirements to Purchase Service.

(1) The employee or person shall file at the agency[~~retirement office~~] all documentation necessary for the agency to determine that the service meets the eligibility requirements for purchase of service.

(2) The agency may require that any statement, letter, form, or other document required by[~~in~~] this administrative regulation be notarized, made under oath as defined in KRS 523.010, or both.

(3) An employee or person shall not certify their[~~his or her~~] own service on any of the statements, letters, forms, or other documents required by this administrative regulation.

(4)

(a) The agency shall determine how much service is eligible for purchase by statute and shall notify the employee or person in writing of the cost of the service that qualifies for purchase.

(b) If the agency determines that the service is not eligible for purchase, it shall notify the employee or person in writing of the reasons.

Section 3.[~~Section 4.~~] Purchase of Omitted Service.

(1)

(a) To purchase omitted service pursuant to KRS 61.552(2) and 78.545, the employee or person shall file at the agency[~~retirement office~~] a valid Form 4225, Verification of Past Employment.

(b) If the employee or person is seeking to purchase omitted service based on employment with the Executive Branch, copies of personnel and wage records provided by the employer may[~~shall~~] be filed at the agency[~~retirement office~~] instead of Form 4225[~~, Verification of Past Employment~~].

(c) The agency may determine eligibility to purchase omitted service based on records submitted pursuant to KRS 61.675, 78.625, or 105 KAR 1:130 without an application by the employee.

(2) If the agency determines that the employer records[~~submitted on Form 4225, Verification of Past Employment, or the personnel and wage records from the Executive Branch employer~~] are not sufficient, the agency may require the employee or person to supplement the employer records with copies of check stubs, W-2 forms, personnel action forms, or payroll records in the employee's or person's possession.

(3) If the employee or person does not have additional documentation of the service, the employee or person may file at the agency[~~retirement~~] office a report of detailed earnings from the Social Security Administration for the period of service, along with two (2) Form 4160s, Affidavit and Certification for Documentation of Service completed by persons who earned, or were eligible for, service for the same period in a state-administered[~~state administered~~] retirement system with the same employer. Each affiant shall detail the employee's or person's employment status and length of service.

Section 4.[~~Section 5.~~] Purchase of School Board Service. For service with a school board, the employee shall file at the agency[~~retirement office~~] a valid Form 4225, Verification of Past Employment.

Section 5.[~~Section 6.~~] Vested Service Purchases.

(1) In order to purchase service credit pursuant to this section, a member shall be:

(a) Participating in one of the retirement systems administered by the Kentucky Public Pensions Authority; and

(b) Vested as defined by KRS 16.505(29), 61.510(22), or 78.510(30).

(2)

(a)[~~(1)~~]

[~~(a)~~] To purchase service credit for active duty service in the Armed Forces of the United States pursuant to KRS 61.552(5)(d) and 78.545, the employee shall file at the agency[~~retirement office~~] a copy of the federal form DD-214 or other official military documents clearly indicating the:

1. Date[~~The date~~] of entry into active duty service;

2. Date[~~The date~~] of discharge from active duty service; and

3. Type[~~The type~~] of discharge.

(b) To purchase service credit for service in the National Guard or the military reserve forces pursuant to KRS 61.552(5)(e) and 78.545, including periods of active duty training,[~~or for service in the National Guard,~~] the employee shall file at the agency[~~retirement office~~] copies of official military documents clearly indicating the date of entry and current participation or date of discharge.

(c) The documents required by[~~in~~] paragraphs (a) or (b) of this subsection shall be verified by a statement or letter signed by an authorized employee of the military.

(d) The agency shall verify with the employer the beginning and ending dates of the period of leave associated with active duty service in the Armed Forces of the United States, or service in the National Guard[~~,~~] or[~~service in~~] the military reserve forces.

(3)[~~(2)~~]

(a) To purchase service for a period when the employee was on educational, maternity, or sick leave without pay pursuant to KRS 61.552(5)(i) and 78.545, the employee shall file at the agency[~~retirement office~~] a statement or letter from the reporting official, personnel director, or agency head certifying the beginning and ending dates of[~~the period of leave~~] and the type of leave designated by the employer.

(b) The agency shall verify with the employer the beginning and ending dates of[~~the period of~~] educational, maternity, or sick leave without pay.

(4)[~~(3)~~] To purchase state university service pursuant to KRS 61.552(5)(b) and 78.545, the employee shall file at the agency[~~retirement office~~] a valid Form 4120, Verification of Employment with a State University.

(5)[~~(4)~~] To purchase federal service pursuant to KRS 61.552(5)(f) and 78.545, the employee shall file at the agency[~~retirement office~~] a valid Form 4115, Federal Verification.

(6)[~~(5)~~]

(a) To purchase past seasonal, emergency, interim, probationary, temporary, or part-time employment that averages the required hours of work per month pursuant to KRS 61.552(5)(g) and 78.545, the employee shall file at the agency[~~retirement office~~] a valid Form 4225, Verification of Past Employment.

(b) If the employee is seeking to purchase service based on past seasonal, emergency, interim, probationary, temporary, or part-time employment with the Executive Branch, documentation to be filed at the agency shall include:

1. Copies[~~copies~~] of personnel and wage records provided by the employer;

2. A Form 4225; or

3. Other documentation the agency deems necessary to confirm the employment that the service purchase is being based on[~~shall be filed at the retirement office instead of Form 4225, Verification of Past Employment~~].

(7)[(6)] To purchase service with a non-participating agency whose service is authorized pursuant to KRS 61.552(5)(j) and 78.545, the employee shall file at the agency[retirement office the following documentation and may be required to file additional information, if necessary for determination]:

(a) The beginning and ending dates of the service and any breaks that may have occurred during the service, listed by fiscal year;

(b) The number of calendar months worked;

(c) The position title and status, including full-time, part-time, probationary, emergency, seasonal, temporary, or interim;[and]

(d) If the employee participated in a retirement plan, and if so, if the:

1. Plan[plan] was a defined contribution or defined benefit plan;[, and]

2. Employee[if the employee] has taken a refund of contributions to the plan; and

(e) Any other documentation the agency deems necessary to determine eligibility.

(8)[(7)] To purchase urban-county government service pursuant to KRS 61.552(5)(k) and 78.545, the employee shall file at the agency[retirement office] a valid Form 4131, Verification of Urban-County Government Service.

(9)[(8)] Out-of-State Service Credit.

(a) To purchase service credit for any out-of-state public service pursuant to KRS 61.552(5)(c) and 78.545, the employee shall file at the agency[retirement office] a valid Form 4140, Verification of Out-of-State Service.

(b) To purchase nonhazardous out-of-state service credit pursuant to KRS 61.552(5)(c), a member shall:

1. Have been employed in a regular, full-time position;

2. Have earned the out-of-state service credit in a state or local defined benefit plan other than a plan for teachers; and

3. Provide documentation or other evidence that they are not eligible for a retirement benefit from the out-of-state plan for the same period of service.

(c)[(b)] To purchase out-of-state service credit for a hazardous duty position, the employee shall:[also]

1. File[file] at the agency a Form 4140 and[retirement office] a copy of the description of the duties of the out-of-state position from their[his or her] former out-of-state employer;[.]

2. Meet the eligibility requirements established in subsection (9)(b) of this section;

3. Be vested in any system in which the member has a hazardous service account based solely upon service in that system; and

4. Have been employed in an out-of-state

[(c)] [Out-of-state service credit shall be eligible for purchase as hazardous duty if the] position that is the same as or substantially similar to positions for which hazardous duty credit has been approved pursuant to, and meets the definition of a hazardous position as established in,[under] KRS 61.592 or 78.5522.

(d) Nonhazardous service may not be used to meet the vesting requirement for a hazardous service credit purchase.

Section 6.[Section 7.] Service Purchase Calculations Based on Actuarial Cost.

(1) Except for employees of a school board paid under an employment contract, for a purchase based on the actuarial cost, in accordance with KRS 61.552(10)(a) and 78.545, the higher of the current rate of pay, final rate of pay, or final compensation times the actuarial age factor shall be[determined as follows]:

(a) Current rate of pay shall be[determined as follows]:

1. For an hourly employee paid on a seven and one-half (7 1/2) hour day, the hourly rate times 1,950;

2. For an hourly employee paid on an eight (8) hour day, the hourly rate times 2,080;

3. For an employee paid by the day, the daily rate times 260;

4. For an employee paid by the week, the weekly rate times fifty-two (52);

5. For an employee paid by the month, the monthly rate times twelve (12);

6. For a part-time employee who averages 100 or more hours per month, the hourly rate times hours per day times 260. If the number of hours worked per day is not fixed by the employer, seven and one-half (7 1/2) hours shall be used;

7. For an employee who receives a fixed amount in addition to an hourly, daily, weekly, monthly, or annual rate, the current rate shall include all fixed amounts, averaged into the same period;

8. For an employee simultaneously employed in more than one (1) of the systems, the higher of the combined current rate of pay, combined final rate of pay, or combined final compensation shall be used as of the cost calculation date.

(b) Final compensation shall be determined as of the cost calculation date, except that if the agency provides or corrects a cost calculation for a retired member, final compensation shall be based on the definition of final compensation as established in 105 KAR 1:001 in effect on their retirement date. To determine final compensation in effect for the cost calculation or correction for a retired member, the agency shall use[the final compensation of nonhazardous members of the County Employees Retirement System or Kentucky Employees Retirement System with an effective retirement date within the window provided in KRS 61.510(14)(b) and 78.510(14)(b) shall be based on the three (3) fiscal years with the highest average monthly earnings if the sum of the employee's service when added to his age would equal at least seventy-five (75), assuming] the employee's actual service, including[includes]:

1. All service[remaining on an active installment purchase agreement;]

[2.] [All service] which the employee purchased pursuant to[is eligible to purchase under] KRS 61.552(2), 61.552(3), and 78.545; and

2. The employee's age at retirement

[3.] [All service the employee would accrue if employment continued through December 31, 2008.]

[(c)] [The employee's age rounded to the nearest year as of the cost calculation date shall be used].

(c)[(d)] The benefit factor used to determine the actuarial cost, in accordance with KRS 61.552(10)(a) and 78.545, shall be the benefit factor to which the employee is entitled on the first day of the month following the cost calculation date, except that the benefit factor for nonhazardous employees of the County Employees Retirement System and the Kentucky Employees Retirement System with an effective retirement date within the window established[provided] in KRS 61.510(14)(b) and 78.510(14)(b) shall be the highest benefit factor to which the employee would be entitled, assuming total service as determined in paragraph (b) of this subsection.

(2) For employees of a school board paid under an employment contract, for a purchase based on the actuarial cost, in accordance with KRS 61.552(10)(a) and 78.545, the higher of the current rate of pay, final rate of pay, or final compensation times the actuarial age factor shall be[determined as follows]:

(a) The current rate of pay shall be equal to the final compensation as of the cost calculation date.

(b) Final compensation shall be determined as of the cost calculation date, except that the final compensation of nonhazardous members of the County Employees Retirement System or Kentucky Employees Retirement System with an effective retirement date within the window established[provided] in KRS 61.510(14)(b) and 78.510(14)(b) shall be based on the three (3) fiscal years with the highest average monthly earnings if the sum of the employee's service when added to their[his] age would equal at least seventy-five (75), assuming the employee's service includes all service:

1. Remaining[All service remaining] on an active installment purchase agreement;

2. Which[All service which] the employee is eligible to purchase under KRS 61.552(2), 61.552(3), and 78.545; and

3. The[All service the] employee would accrue if employment continued through December 31, 2008.

(c) The employee's age rounded to the nearest year as of the cost calculation date shall be used.

(d) The benefit factor used to determine the actuarial cost, in accordance with KRS 61.552(10)(a) and 78.545, shall be the benefit factor to which the employee is entitled on the first day of the month following the cost calculation date, except that the benefit factor for nonhazardous employees of the County Employees Retirement System and the Kentucky Employees Retirement System with an effective retirement date within the window established[~~provided~~] in KRS 61.510(14)(b) and 78.510(14)(b) shall be the highest benefit factor to which the employee would be entitled, assuming total service as determined in paragraph (b) of this subsection.

Section 7.[~~Section 8.~~] Correction Upon Discovery of Error or Omission in Service Purchase Costs.

(1) After the employee, member, or retired member has purchased service, the agency may recalculate the cost of the service if, upon audit, the agency determines that any of the information utilized to calculate the cost of the service was incorrect.

(2) If the recalculation results in an increase in the cost of $100 or more, the employee or person, member, or retired member shall have thirty (30) days to pay the additional amount.

(3) If the employee, member, retired member, or the employer, fails to pay the additional amount, the employee's, member's, or retired member's service shall be reduced to the next lower increment or number of months for which the employee, member, or retired member is eligible based on the original payment, and the difference shall be refunded to the employee, member, or retired member.

Section 8.[~~Section 9.~~] Special Considerations for Purchase of Refunded or Past Service.

(1) The verified wages associated with service purchased under the provisions of KRS 61.552 and 78.545 that would have qualified as creditable compensation shall be added to the employee's account and shall be used in determining the employee's final compensation.

(2) An employee purchasing service pursuant to[~~under the preceding~~] subsection (1) of this section by increments or by installment purchase agreement shall have the service credited in chronological order beginning with the earliest service.

Section 9.[~~Section 10.~~] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 4172, "Notice of Intent to Transfer Lump Sum Payment(s) to Qualified Employer Sponsored Plan," April 2021;

(b) Form 4170, "Direct Transfer/Rollover Authorization Form" 1/2026[~~April 2021~~];

(c) Form 4225, "Verification of Past Employment," 1/2026[~~April 2021~~];

(d) Form 4160, "Affidavit and Certification for Documentation of Service," 1/2026[~~September 2010~~];

(e) Form 4120, "Verification of Employment with a State University," April 2021;

(f) Form 4115, "Federal Verification," 1/2026[~~April 2021~~];

(g) Form 4131, "Verification of Urban-County Government Service," April 2021; and

(h) Form 4140, "Verification of Out-of-State Service," April 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or on the agency's website at kyret.ky.gov.

RYAN BARROW, Executive Director

APPROVED BY AGENCY: December 10, 2025

FILED WITH LRC: January 9, 2026 AT 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2026 at 10:00 a.m. Eastern Time at the Kentucky Public Pensions Authority (KPPA), 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in presenting a public comment at this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026 and shall receive the same consideration as verbal comments. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. KPPA shall file a response with the Regulations Compiler to any public comments received, whether at the public comment hearing or in writing, via a Statement of Consideration no later than the 15th day of the month following the end of the public comment period, or upon filing a written request for extension, no later than the 15th day of the second month following the end of the public comment period.

CONTACT PERSON: Carole J. Catalfo, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 696-8679, Fax (502) 696-8615, Email: Legal.Non-Advocacy@kyret.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo

Subject Headings: Boards and Commissions, Local Governments, Retirements and Pensions, State Employees, State Police

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements and forms for eligibility and purchase of service credit and the filing deadlines on which the cost calculation will be made.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements and forms for eligibility and purchase of service credit, and the filing deadlines on which the cost calculation will be made.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.505(1)(f) and (1)(g) and 61.645(9)(e) authorize the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505 to 61.705, and 78.510 to 78.852. KRS 16.545, 16.645, 61.543, 61.552, 61.592, 78.5520, 61.685, 78.545, and 78.610 provide for purchasing service credit and out-of-state service credit for Kentucky Employees Retirement Systems members. KRS 16.645(19) and 78.545(7) provide that purchase of service credit for members of the State Police Retirement System and County Employees Retirement System, respectively, shall be administered in the same manner submit to the same limitations and requirements as provided for the Kentucky Employees Retirement System. 26 U.S.C. 415 establishes federal requirements regarding purchases of service credit. This administrative regulation establishes the requirements and forms for eligibility and purchase of service credit, and the filing deadlines on which the cost calculation will be made.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the requirements and forms for eligibility and purchase of service credit, and the filing deadlines on which the cost calculation will be made.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation updates statutory authority and references, consolidates 105 KAR 1:260 Purchase of out-of-state service credit, which is being repealed, with this administrative regulation, removes definitions that are contained in statute and in 105 KAR 1:001 Definitions, aligns language with KRS Chapter 13A drafting requirements, and updates materials incorporated by reference.

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

update statutory authority and references, consolidate 105 KAR 1:260 Purchase of out-of-state service credit, which is being repealed, with this administrative regulation, remove definitions that are contained in statute and in 105 KAR 1:001 Definitions, align language with KRS Chapter 13A drafting requirements, and update materials incorporated by reference.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 61.505(1)(f) and (1)(g) and 61.645(9)(e) authorize the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505 to 61.705, and 78.510 to 78.852. KRS 16.545, 16.645, 61.543, 61.552, 61.592, 78.5520, 61.685, 78.545, and 78.610 provide for purchasing service credit and out-of-state service credit for Kentucky Employees Retirement Systems members. KRS 16.645(19) and 78.545(7) provide that purchase of service credit for members of the State Police Retirement System and County Employees Retirement System, respectively, shall be administered in the same manner submit to the same limitations and requirements as provided for the Kentucky Employees Retirement System. 26 U.S.C. 415 establishes federal requirements regarding purchases of service credit. This administrative regulation establishes the requirements and forms for eligibility and purchase of service credit, and the filing deadlines on which the cost calculation will be made.
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist in the effective administration of the statutes by updating statutory authority and references, consolidating 105 KAR 1:260 Purchase of out-of-state service credit, which is being repealed, with this administrative regulation, removing definitions that are contained in statute and in 105 KAR 1:001 Definitions, aligning language with KRS Chapter 13A drafting requirements, and updating materials incorporated by reference.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? {If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.} KRS 61.505 - Amended 2024 Ky. Acts ch. 55, sec. 1, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 28, sec. 1, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 2, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 76, effective April 1, 2021. -- Created 2020 Ky. Acts ch. 79, sec. 2, effective April 1, 2021. KRS 61.543 - Amended 2021 Ky. Acts ch. 102, sec. 49, effective April 1, 2021. KRS 61.552 - Amended 2024 Ky. Acts ch. 55, sec. 8, effective July 15, 2024. -- Amended 2022 Ky. Acts ch. 165, sec. 5, effective July 14, 2022. -- Repealed and reenacted 2021 Ky. Acts ch. 102, sec. 52, effective April 1, 2021. -- Amended 2020 Ky. Acts ch. 79, sec. 43, effective April 1, 2021.KRS 61.592. KRS 61.645 - Amended 2024 Ky. Acts ch. 55, sec. 13, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 94, sec. 3, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 12, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 66, effective April 1, 2021. -- Amended 2020 Ky. Acts ch. 79, sec. 4, effective April 1, 2021. KRS 61.685 - Amended 2024 Ky. Acts ch. 55, sec. 15, effective July 15, 2024. -- Amended 2021 Ky. Acts ch. 189, sec. 1, effective June 29, 2021. KRS 78.5520 - Created 2021 Ky. Acts ch. 102, sec. 6, effective April 1, 2021. KRS 78.545 - Amended 2021 Ky. Acts ch. 102, sec. 20, effective April 1, 2021. KRS 78.610 - Amended 2021 Ky. Acts ch. 102, sec. 21, effective April 1, 2021.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Of approximately 433,461 participants in the Kentucky Employees Retirement System, the State Police Retirement System, and the County Employees Retirement System, those who wish to purchase service credit are affected by this administrative regulation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The regulated community will be minimally impacted because the administrative regulation is already being implemented as written. The amendments are primarily technical in nature.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional costs to comply with the amendment because it is already being implemented as written. The amendment is primarily technical in nature.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated community will benefit from having a consolidated administrative regulation that addresses purchases of both in-state and out-of-state service credit, removing definitions that are contained in statute and in 105 KAR 1:001 Definitions, and updated materials incorporated by reference.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no additional costs because the regulation is already being implemented as written.
(b) On a continuing basis: There will be no additional costs because the regulation is already being implemented as written.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No, an increase in fees or funding will not be necessary.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering is applied only to the extent that the documentation of service credit to be purchased may differ between hazardous and nonhazardous positions, and in-state or out-of-state service credit.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: . KRS 61.545(9)(e), 61.505(1)(f) and (1)(g), 16.545, 16.645, 61.543, 61.552, 61.592, 61.685, 78.5520, 78.545, 78.610, 26 U.S.C. 415
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 61.545(9)(e), 61.505(1)(f) and (1)(g), 16.545, 16.645, 61.543, 61.552, 61.592, 78.5520, 61.685, 78.545, and 78.610.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Public Pensions Authority. There are no other affected state units, parts, or divisions. (b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A

3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): There are no additional affected entities.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:
For the first year: N/A
For subsequent years: N/A (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This administrative regulation has minimal fiscal impact. It is already being implemented as written
(b) Methodology and resources used to reach this conclusion: The agency analyzed its costs and procedures to implement the purchase of in-state and out-of-state service credit.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No, this administrative regulation will not have a major economic impact as defined by KRS 13A.010(14).
(b) The methodology and resources used to reach this conclusion: The agency analyzed its costs and procedures to implement the purchase of in-state and out-of-state service credit.

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amendment)

105 KAR 1:380. Minimum distribution.

RELATES TO: KRS 61.645(9)(e), 26 C.F.R. 1.401(a)(9)-1-1.401(a)(9)-9, 26 U.S.C. 401(a)(9), 26 U.S.C. 414(d)
STATUTORY AUTHORITY: KRS 61.645(9)(e)
CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(g) requires the Kentucky Public Pensions Authority[Board of Trustees of Kentucky Retirement Systems] to promulgate administrative regulations necessary to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 61.645(9)(e) and this administrative regulation implement the statutory requirements of IRC Section 401(a)(9), which is codified as 26 U.S.C. 401(a)(9)[, and are meant to be a reasonable good faith interpretation of those statutory requirements]. This administrative regulation establishes minimum distribution requirements as applied to a governmental plan pursuant to 26 U.S.C. 414(d),[in compliance with 26 U.S.C.] 401(a)(9), and the federal SECURE Act of 2022 .

Section 1. Definitions.
(1) "Applicable age" means the age established in 26 U.S.C. 401(a)(9)(C)(v).["Member" means a member of a retirement fund established in accordance with KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, and administered by the Kentucky Retirement Systems.]
(2) "Designated beneficiary" means an individual designated as the beneficiary under applicable plan provisions or by a participant's affirmative election.
(3)[(2)] "Required beginning date" means April 1 of the calendar year following the later of the calendar year in which the member attains the applicable age or retires[:]
[(a)] [The calendar year in which the member attains age seventy and one-half (70 1/2); or]
[(b)] [The calendar year in which the member retires].

Section 2.
(1) This administrative regulation shall apply to members of a fund established in accordance with KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852.
(2) Kentucky Public Pensions Authority[Retirement Systems] shall pay all benefits in accordance with[a good faith interpretation of the requirements of] 26 U.S.C. 401(a)(9) and the Code of Federal Regulations in effect under that section, as applicable to a governmental plan within the meaning of 26 U.S.C. 414(d). The requirements of 26 U.S.C. 401(a)(9) and Title 26 of the Code of Federal Regulations shall take precedence over any inconsistent provisions of this administrative regulation or KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852.
(3) The member's entire interest shall be distributed over the member's life or lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary.

Section 3.
(1) Except as provided in subsection (2) of this section, the member's entire interest shall be distributed[,] or begin to be distributed[, to the member] no later than the member's required beginning date.
(2) If the member dies before distributions begin, the member's entire interest shall be distributed, or begin to be distributed, no later than as established in this subsection.[follows:]
(a) Except as provided in subsection (3) of this section,[if the member's surviving spouse is][the member's sole designated beneficiary,] distributions to a member's sole designated beneficiary[the surviving spouse] shall begin by the later of:
1. December 31 of the calendar year immediately following the calendar year in which the member died; or
2. December 31 of the calendar year in which the member would have attained the applicable age.[seventy and one-half (70 1/2);]
(b) [If the member's surviving spouse is not the member's sole designated beneficiary, distributions to each designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the member died; or]
[(c)] If there is no designated beneficiary as of September 30 of the year following the year of the member's death, or if the beneficiary on file is a trust, the member's entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.
(c) If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this subsection, except for paragraph (a), shall apply as if the surviving spouse were the member as established in 26 C.F.R. 1.401(a)(9)-3(e).
(3) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest shall be distributed at least as rapidly as under the method of distribution before the member's death.
(4)
(a) For purposes of Section 3(2) to (3) and Section 6 of this administrative regulation, distributions shall[be required to] begin on the member's required beginning date.
(b) If annuity payments irrevocably commence to the member before the member's required beginning date, or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse pursuant to subsection (2)(a) of this section, the date distributions are considered to begin shall be the date distributions actually commence.

Section 4.
(1) If the member's interest is paid in the form of annuity distributions, payments pursuant to the annuity shall[satisfy the following requirements]:
(a) Be[The annuity distributions shall be] paid in monthly periodic payments;

(b) Have a[~~The~~] distribution period[~~shall be~~] over a life or lives,[~~(or lives)~~] or over a period certain not longer than the period established in Title 26 of the Code of Federal Regulations[~~described in this section or Section 5 or 6 of this administrative regulation~~];

(c) Not change the period certain once[~~Once~~] payments have begun over a period certain,[~~the period certain shall not be changed~~] even if the period certain is shorter than the maximum permitted; and

(d) Increase payments only[~~Payments shall increase only as follows~~]:

1. By the annual percentage increase provided for pursuant to KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852;

2. To the extent of the reduction in the amount of the member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in this section dies, or if the beneficiary is the member's spouse and they divorce, as provided in KRS 61.635(10);

3. To provide cash refunds of employee contributions upon the member's death; or

4. To pay any increased benefits that result from a plan amendment.

(2)

(a) The amount that shall be distributed on or before the member's required beginning date, or if the member dies before distributions begin, the date distributions are required to begin pursuant to Section 3[~~3(2)~~] of this administrative regulation, shall be the payment that is required for one (1) month.

(b) The second payment shall not be required to be made until the end of the next payment interval even if that payment interval ends in the next calendar year.

(c) All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for months ending on or after the member's required beginning date.

Section 5.

(1) The amount of annuity paid to a member's beneficiary shall not exceed the maximum determined under the incidental death benefit requirement established in[~~of~~] 26 U.S.C. 401(a)(9)(G), and the minimum distribution incidental benefit rule established in 26 C.F.R. 1.401(a)(9)-6(b)[~~under 26 C.F.R. 1.401(a)(9)-6, Q&A-2~~].

(2) The death and disability benefits provided by Kentucky Retirement Systems and County Employees Retirement System[~~systems~~] shall be limited by the incidental benefit rule established[~~set forth~~] in 26 U.S.C. 401(a)(9)(g) and 1.401-1(b)(1)(i)[~~or any successor law~~]. As a result, the total death or disability benefits payable shall not exceed twenty-five (25) percent of the cost of all of the members' benefits received from Kentucky Retirement Systems and County Employees Retirement System.

(3)

(a) Unless the member's spouse who is more than ten (10) years younger than the member is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the member's lifetime shall not exceed the applicable distribution period for the member pursuant to the uniform lifetime table established in 26 C.F.R. 1.401(a)(9)-9 for the calendar year that contains the annuity starting date.

(b) If the member is younger than the applicable age on the member's birthday in the calendar year that includes the annuity starting date, the period certain may not exceed the limitation on the period certain for a person who has attained the applicable age, increased by the number of years the member is younger than the applicable age on that birthday[~~annuity starting date precedes the year in which the member reaches age seventy (70), the applicable distribution period for the member shall be the distribution period for age seventy (70) under the uniform lifetime table established in 26 C.F.R. 1.401(a)(9)-9 plus the excess of seventy (70) over the age of the member as of the member's birthday in the year that contains the annuity starting date~~].

(4) If the member's spouse is ten (10) years younger than the member and is the member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain shall not exceed the longer of the member's applicable distribution period, as determined pursuant to this subsection, or the joint life and last survivor expectancy of the member and the member's spouse as determined pursuant to the joint and last survivor table established in 26 C.F.R. 1.401(a)(9)-9, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the calendar year that contains the annuity starting date.

Section 6.

(1) If the member dies before the date distribution of the member's interest begins and there is a designated beneficiary, the entire interest payable to the member shall be distributed, beginning no later than the time established in Section 3(2)(a) or (b) of this administrative regulation, over the life of the designated beneficiary or over a period certain not exceeding:

(a) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

(b) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) If the member dies before the date distribution of their[~~his or her~~] interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section shall apply as if the surviving spouse were the member, except that the time by which distributions are required to begin shall be determined without regard to Section 3(2)(a) of this administrative regulation.

RYAN BARROW, Executive Director

APPROVED BY AGENCY: December 10, 2025

FILED WITH LRC: January 9, 2026 AT 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2026 at 10:00 a.m. Eastern Time at the Kentucky Public Pensions Authority (KPPA), 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in presenting a public comment at this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026 and shall receive the same consideration as verbal comments. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. KPPA shall file a response with the Regulations Compiler to any public comments received, whether at the public comment hearing or in writing, via a Statement of Consideration no later than the 15th day of the month following the end of the public comment period, or upon filing a written request for extension, no later than the 15th day of the second month following the end of the public comment period.

CONTACT PERSON: Carole J. Catalfo, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 696-8679, Fax (502) 696-8615, Email: Legal.Non-Advocacy@kyret.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo

Subject Headings: Boards and Commissions, Retirements and Pensions, State Employees

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum distribution requirements as applied to a governmental plan pursuant to 26 U.S.C. 414(d),26 U.S.C. 401(a)(9), and the federal SECURE Act of 2022.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish minimum distribution requirements as applied to a governmental plan pursuant to 26 U.S.C. 414(d),26 U.S.C. 401(a)(9), and the federal SECURE Act of 2022.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.645(9)(g) requires the Kentucky Public Pensions Authority to promulgate administrative regulations necessary to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 61.645(9)(e) and this administrative regulation implement the statutory requirements of IRC Section 401(a)(9), which is codified as 26 U.S.C. 401(a)(9). This administrative regulation establishes minimum distribution requirements as applied to a governmental plan pursuant to 26 U.S.C. 414(d),26 U.S.C. 401(a)(9), and the federal SECURE Act of 2022.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the minimum distribution requirements as applied to governmental plans pursuant to 26 U.S.C. 414(d),26 U.S.C. 401(a)(9), and the federal SECURE Act of 2022.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation revises definitions, updates references to and the requirements of the Code of Federal Regulations, adds the new rule regarding distributions to a spouse who is ten (10) or more years younger than the member pursuant to the federal SECURE Act of 2022, and updates language to comply with KRS Chapter 13A drafting requirements.
(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to revise definitions, update references to and the requirements of the Code of Federal Regulations, add the new rule regarding distributions to a spouse who is ten (10) or more years younger than the member pursuant to the federal SECURE Act of 2022, and update language to comply with KRS Chapter 13A drafting requirements. (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.645(9)(g) requires the Kentucky Public Pensions Authority to promulgate administrative regulations necessary to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 61.645(9)(e) and this administrative regulation implement the statutory requirements of IRC Section 401(a)(9), which is codified as 26 U.S.C. 401(a)(9). This administrative regulation establishes minimum distribution requirements as applied to a governmental plan pursuant to 26 U.S.C. 414(d),26 U.S.C. 401(a)(9), and the federal SECURE Act of 2022.
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist in the effective administration of the statutes by revising definitions, updating references to and the requirements of the Code of Federal Regulations, adding the new rule regarding distributions to a spouse who is ten (10) or more years younger than the member pursuant to the federal SECURE Act of 2022, and updating language to comply with KRS Chapter 13A drafting requirements.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? (If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.) KRS 61.645 - Amended 2024 Ky. Acts ch. 55, sec. 13, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 94, sec. 3, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 12, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 66, effective April 1, 2021. -- Amended 2020 Ky. Acts ch. 79, sec. 4, effective April 1, 2021.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects approximately 433,461 participants in the Kentucky Retirement Systems, the State Police Retirement System, and the County Employees Retirement System.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The regulated community will be minimally impacted because the administrative regulation is already being implemented as written. The amendments are primarily technical in nature.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional costs to comply with the amendment because it is already being implemented as written. The amendment is primarily technical in nature.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated community will benefit from revised definitions, updated references to and requirements of the Code of Federal Regulations, adding the new rule regarding distributions to a spouse who is ten (10) or more years younger than the member pursuant to the federal SECURE Act of 2022, and updating language to comply with KRS Chapter 13A drafting requirements.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no additional costs because the regulation is already being implemented as written.
(b) On a continuing basis: There will be no additional costs because the regulation is already being implemented as written.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No, an increase in fees or funding will not be necessary.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? No, tiering is not applied. The federal minimum distribution requirements are applicable to all members.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 61.645(9)(g) and (9)(e), 26 U.S.C. 401(a)(9) and 414(d), and the federal SECURE Act of 2022
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 61.645(9)(g) and (9)(e)
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Public Pensions Authority. There are no other affected state units, parts, or divisions. (b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:

For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): There are no additional regulated entities.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This administrative regulation has little fiscal impact. It is already being implemented as written.
(b) Methodology and resources used to reach this conclusion: The agency analyzed costs and procedures for implementing federal minimum distribution requirements as applied to a governmental plan.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No, this administrative regulation will not have a major economic impact as defined by KRS 13A.010(14).
(b) The methodology and resources used to reach this conclusion: The agency analyzed costs and procedures for implementing federal minimum distribution requirements as applied to a governmental plan.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 26 U.S.C. 401(a)(9) and 414(d), and the federal SECURE Act of 2022.
(2) State compliance standards. KRS 61.645(9)(e) and 9(g)
(3) Minimum or uniform standards contained in the federal mandate. KRS 61.645(9)(e) and this administrative regulation implement the statutory requirements of IRC Section 401(a)(9), which is codified as 26 U.S.C. 401(a)(9). This administrative regulation establishes Minimum distribution requirements as applied to a governmental plan are established in 26 U.S.C. 414(d), 26 U.S.C. 401(a)(9), and the federal SECURE Act of 2022.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation implements the federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose a stricter standard, or additional or different responsibilities or requirements, than the federal standard.

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amendment)

105 KAR 1:400. Federal taxation limitation year.

RELATES TO: KRS 61.505(1)(g); 26 U.S.C. 415[61.645(9)(e)]
STATUTORY AUTHORITY: KRS 61.505(1)(g)[61.645(9)(e)]
CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority on behalf of Kentucky Retirement Systems and County Employees Retirement System[61.645(9)(g) requires the Board of Trustees of Kentucky Retirement Systems] to promulgate administrative regulations necessary or proper in order to carry out the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 and to conform to federal statutes and regulations. 26 U.S.C. 415(c) limits post-tax contributions by a member. This administrative regulation concerns the administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415.

Section 1. Definitions.
(1) "Annual addition" is defined by 26 U.S.C. 415(c)(2).
(2) "Annual benefit" is defined by 26 U.S.C. 415(b)(2).
(3)[(1)] "Fiscal year" is defined by KRS 16.505(32), 61.510(19), and 78.510(19).
(4)[(2)] "415(b) limit" means[to] the limitation on benefits established by 26 U.S.C. 415(b).
(5)[(3)] "415(c) limit" means the limitation on annual additions established by 26 U.S.C. 415(c).

Section 2. The "fiscal year" shall be the limitation year established[as set out] in 26 U.S.C. Section 415 for determining contribution and benefit limits in the plans administered by the Kentucky Retirement Systems or County Employees Retirement System.

Section 3. This administrative regulation shall apply to all plans administered by Kentucky Retirement Systems or County Employees Retirement System. Subject to the provisions of this administrative regulation, benefits paid from, and employee contributions made to, these plans shall not exceed the maximum benefits and the maximum annual addition, respectively, as established in[applicable under] 26 U.S.C. 415. The provisions of this section shall not prevent the member receiving benefits from the funds created by KRS 16.568, 61.663, and 78.652.

Section 4. Participation in Other Qualified Plans: Aggregation of Limits. The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in 26 U.S.C. 414(j) maintained by the member's employer in a Kentucky Retirement Systems or County Employees Retirement System[KRS] plan shall apply as if the total benefits payable under all those defined benefit plans in which the member has been a member were payable from one (1) plan.

Section 5. The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in 26 U.S.C. 414(i) maintained by a participating employer[the member's employer in a KRS plan] shall apply as if the total annual additions under all those defined contribution plans in which the member has been a member were payable from one (1) plan.

Section 6. Basic 415(b) Limitation. On and after January 1, 1995, a member shall not receive an annual benefit that exceeds the dollar amount established[specified] in 26 U.S.C. 415(b)(1)(A), subject to the applicable adjustments established in 26 U.S.C. 415(b) and subject to any additional limits established[that are specified] in this section. A member's annual benefit payable in any limitation year from a Kentucky Retirement Systems or County Employees Retirement System[KRS] plan shall not be greater than

the limit applicable on[~~at~~] the annuity starting date, as increased in subsequent years pursuant to 26 U.S.C. 415(d) and 26 C.F.R. 1.415(d)-1.

Section 7. [~~Definition of~~] Annual Benefit.

(1) For purposes of 26 U.S.C. 415(b), the "annual benefit" is the[~~means a~~] benefit payable annually in the form of a straight life annuity with no ancillary benefits[~~(with no ancillary benefits)~~] without regard to the benefit attributable to:

(a) After-tax[~~after-tax~~] employee contributions other than permissive service credit as defined by 26 U.S.C. 415(n); or

(b) To rollover contributions as defined by 26 U.S.C. 415(b)(2)(A)[~~(except pursuant to 26 U.S.C. 415(n)) and to rollover contributions (as defined in 26 U.S.C. 415(b)(2)(A))~~].

(2) The "benefit attributable" shall be determined in accordance with 26 C.F.R. 1.415(b)-1(b)(2).

Section 8. Adjustments to Basic 415(b) Limitation for Form of Benefit.

(1) If the benefit under a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan is other than the form specified in Section 6 of this administrative regulation, then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors established[~~prescribed~~] in 26 C.F.R. 1.415(b)-1(c).

(2) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then subsection (1) of this section shall be applied by either reducing the section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount[~~determined~~] using the assumptions established[~~specified~~] in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that take[~~takes~~] into account the additional benefits under the form of benefit as established in this subsection.[~~follows:~~]

(a) For a benefit paid in a form to which 26 U.S.C. 417(e)(3) does not apply a monthly benefit, the actuarially equivalent straight life annuity benefit that is the greater of, or[~~(or~~] the reduced 415(b) limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the assumptions established in subparagraphs 1 and 2 of this paragraph.[~~following assumptions):~~]

1. The annual amount of the straight life annuity[~~(if any)~~] payable to the member under the Kentucky Retirement Systems or County Employees Retirement Systems[~~KRS~~] plan commencing on[~~at~~] the same annuity starting date as the form of benefit to the member; or

2. The annual amount of the straight life annuity commencing on[~~at~~] the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a five (5) percent statutory interest assumption established in 26 U.S.C. 415(b)(2) E)(i); and[~~(or the applicable statutory interest assumption), and:~~]

[~~a.~~] [~~On or before December 31, 2008, the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or~~]

[~~b.~~] [~~On or after January 1, 2~~]009[~~,~~] the applicable mortality tables established[~~described~~] in 26 U.S.C. 417(e)(3)(B)[~~, (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B))~~]; or

(b) For a benefit paid in a form to which 26 U.S.C. 417(e)(3) applies[~~a lump sum benefit~~], the actuarially equivalent straight life annuity benefit that is the greatest of, or[~~(or~~] the reduced 415(b) limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the assumptions established in subparagraphs 1 through 3 of this paragraph.[~~following assumptions):~~]

1. The annual amount of the straight life annuity commencing on[~~at~~] the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, established[~~specified~~] in the Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan for actuarial experience;

2. The annual amount of the straight life annuity commencing on[~~at~~] the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a five and one-half (5.5)[~~5.5~~] percent statutory interest assumption established in 26 U.S.C. 415(b)€(ii)(I) and the[~~(or the applicable statutory interest assumption), and:~~]

[~~a.~~] [~~On or before December 31, 2008, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or~~]

[~~b.~~] [~~On or after January 1, 2~~]009[~~, the applicable~~] mortality tables established[~~described~~] in 26 U.S.C. 417(e)(3)(B)[~~(Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B))~~]; or

3. The annual amount of the straight life annuity commencing on[~~at~~] the annuity starting date that has the same actuarial present value as the particular form of benefit payable[~~(computed~~] using the applicable interest rate for the distribution established in 26 C.F.R.[~~under Treasury Regulation section~~] 1.417(e)-1(d)(3)[~~(the thirty (30) year Treasury rate (prior to January 1 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate~~] in effect for the first day of the plan year with a one (1) year stabilization period and[~~period)); and:~~]

[~~a.~~] [~~On or before December 31, 2008, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), divided by 1.05; or~~]

[~~b.~~] [~~On or after January 1, 2~~]009[~~,~~] the applicable mortality tables established[~~described~~] in 26 U.S.C. 417(e)(3)(B)[~~(Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B))~~] divided by 1.05.

Section 9. Benefits Not Taken into Account for 415(b) Limit.[~~(1)~~] For purposes of this administrative regulation, the following benefits shall not be taken into account in applying these limits:

(1) Any ancillary benefit which is not directly related to retirement income benefits;

(2) That portion of any joint and survivor annuity[~~and~~] that constitutes a qualified joint and survivor annuity pursuant to 26 U.S.C. 415(b)(2)(g); and

(3) Any other benefit not required under 26 U.S.C. 415(b)(2) and 26 C.F.R. 1.415(b)-1 to be taken into account for purposes of the limitation of 26 U.S.C. 415(b)(1).

Section 10. Other Adjustments in 415(b) Limitation.

(1) If the member's retirement benefits become payable before age sixty-two (62), the limit established in[~~prescribed by~~] this section shall be reduced in accordance with 26 C.F.R. 1.415(b)-1(d), so that the reduced limit[~~(as so reduced)~~] equals an annual straight life benefit when the retirement income benefit begins[~~(when the retirement income benefit begins)~~] which is equivalent to an adjusted $160,000[~~a $160,000 (as adjusted)~~] annual benefit beginning at age sixty-two (62).

(2) If the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustments established[~~provided for~~] in subsection (1) of this section shall not apply.

(3) The reductions established[~~provided for~~] in subsection (1) of this section shall not apply to preretirement disability benefits or preretirement death benefits.

Section 11. Less than Ten (10) Years of Participation.

(1) The maximum retirement benefits payable to any member who has completed less than ten (10) years of participation in a system shall be the amount determined under Section 6 of this administrative regulation as adjusted under Sections 8 or 10 of this administrative regulation multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator of which is ten (10).

(2) The reduction established in[~~provided by~~] this section shall not:

(a) Reduce[~~reduce~~] the maximum benefit below ten (10) percent of the limit determined without regard to this section; or

(b) Apply[~~. The reduction provided by this section shall not apply~~] to preretirement disability benefits or preretirement death benefits.

Section 12. $10,000 Limit Less than Ten (10) Years of Service.

(1) Notwithstanding any provision of[~~anything in~~] this administrative regulation to the contrary, the retirement benefit payable[~~with respect to a member~~] shall be deemed not to exceed the limit established[~~set forth~~] in this section if the benefits payable[~~, with respect to the member~~] under a Kentucky Retirement Systems or County Employee Retirement System[~~KRS~~] plan and under all other qualified defined benefit pension plans to which the member's employer contributes:[~~,~~]

(a) Do[~~de~~] not exceed $10,000 for the applicable limitation year and for any prior limitation year; and

(b) The[~~the~~] employer has not at any time maintained a qualified defined contribution plan in which the member participated.

(2) If the member has completed less than ten (10) years of service with the employer, the limit under this section shall be a reduced limit equal to $10,000 multiplied by a fraction, the numerator of which is the number of years of service the member has and the denominator of which is ten (10).

Section 13. Effect of COLA without a Lump Sum Component on 415(b) Testing. On[~~Effective on~~] and after January 1, 2003, for purposes of applying the 415(b) limit to a member with no lump sum benefit[~~, the following shall apply~~]:

(1) A member's[~~applicable~~] 415(b) limit shall be applied to the member's annual benefit in the member's first limitation year without regard to any automatic cost of living adjustments;

(2) To the extent that the member's annual benefit equals or exceeds the limit[~~Limit~~], the member shall not be eligible for cost of living increases from the funds created by KRS 16.510, 61.515, 78.520, until the[~~time that the~~] benefit added to[~~plus~~] the accumulated increases are less than the 415(b) limit; and

(3) In[~~Thereafter, in~~] any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the current[~~then applicable~~] 415(b) limit including any adjustment to the 26 U.S.C. 415(b)(1)(A) dollar limit under 26 U.S.C. 415(d), and 26 C.F.R. 1.415(b)-1(d)[~~. The provisions of this section shall not prevent the member receiving benefits from the funds created by KRS 16.568, 61.663, and 78.652~~].

Section 14. Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of their[~~the member's~~] annual benefit in a lump sum, the[~~a member's applicable~~] limit shall be applied taking into consideration cost of living increases as required by 26 U.S.C. 415(b) and 26 C.F.R. 1.415(b)-1.

Section 15. 415(c) Limit. After-tax member contributions or other annual additions with respect to a member shall not exceed the lesser of $40,000, as adjusted pursuant to 26 U.S.C. 415(d),[~~(as adjusted pursuant to 26 U.S.C. 415(d))~~] or 100 percent of the member's compensation.

(1) [~~Annual additions shall mean the sum (for any year) of employer contributions to a defined contribution plan, post-tax member contributions, and forfeitures credited to a member's individual account. Member contributions shall be determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.~~]

[~~(2)~~] For purposes of applying the 415(c) limits only, compensation[~~and for no other purpose, the definition of compensation if applicable~~] shall be compensation actually paid or made available during a limitation year, except as established[~~noted~~] in subsection (3) of this section and as permitted by Treasury Regulation Section 1.415(c)-2,[~~or successor regulation;~~] except that member contributions picked up under 26 U.S.C. 414(h) shall not be treated as compensation.

(2)

(a)[~~(3)~~] Unless another definition of compensation that is permitted by Treasury Regulation Section 1.415(c)-2[~~, or successor regulation,~~] is specified by a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan, compensation shall be:[~~defined as~~]

1. Wages as defined by[~~wages within the meaning of~~] 26 U.S.C. 3401(a);

2. All[~~and all~~] other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under 26 U.S.C. 6041(d), 6051(a)(3), and 6052; and

3. Determined[~~shall be determined~~] without regard to any rules under 26 U.S.C. 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed, including[~~(such as~~] the exception for agricultural labor in 26 U.S.C. 3401(a)(2)[~~3401(a)(2))~~].

(b)[~~(a)~~] For[~~However, for~~] limitation years beginning on and after January 1, 1998, compensation shall also include amounts that would otherwise be included in compensation but for an election under 26 U.S.C. 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

(c) For limitation years beginning on and after January 1, 2001, compensation shall also include any elective amounts that are not includible in the gross income of the employee by reason of 26 U.S.C. 132(f)(4).

(d)[~~(b)~~] For limitation years beginning on and after January 1, 2009, compensation[~~for the limitation year~~] shall also include compensation paid by the later of two and one-half (2 1/2) months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:

1. The payment is:

a. Regular compensation for services during the employee's regular working hours;

b. Compensation for services outside the employee's regular working hours, including[~~such as~~] overtime or shift differential; or

c. Commissions, bonuses, or other similar payments; and

2. Absent a severance from employment, the employee would have been able to use the payments including[~~(including~~] unused accrued bona fide sick, vacation or other leave[~~leave)~~] if employment had continued.

(e)[~~(c)~~] Any payments not established[~~described~~] in paragraph (d)[~~(b)~~] of this subsection shall not be considered compensation if paid after severance from employment, even if they are paid within two and one half (2 1/2) months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service as established in 26 U.S.C. 414(u)(1)[~~(within the meaning of 26 U.S.C. 414(u)(1))~~] to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service. An employee who is in qualified military service[~~(within the meaning of 26 U.S.C. 414(u)(1))~~] shall be treated as receiving compensation from the employer during the period of qualified military service equal to:

1. The compensation the employee would have received during the period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service; or

2. If the compensation the employee would have received during the period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service or,[~~(or,~~] if shorter, the period of employment immediately preceding the qualified military service[~~service)~~].

(f)[~~(d)~~] Back pay, as established in 26 C.F.R.[~~within the meaning of Treasury Regulation section~~] 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

Section 16. Service Purchases Under Section 415(n).

(1) Beginning[~~Effective for permissive service credit contributions made in limitation years beginning~~] after December 31, 1997, if a member makes one (1) or more contributions to purchase permissive service credit under a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan,[~~then~~] the requirements of 26 U.S.C. 415(n) shall be treated as met only if determined by treating:

(a) The[~~requirements of 26 U.S.C. 415(b) are met, determined by treating the~~] accrued benefit derived from all these contributions as an annual benefit for purposes of the 415(b) limit; or

(b) All of the[~~The requirements of 26 U.S.C. 415(c) are met, determined by treating all these~~] contributions made pursuant to this subsection as annual additions for purposes of the 415(c) limit.

(2) For purposes of applying this section, a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan shall not fail to meet solely by reason of this section the:

(a) Reduced[~~reduced~~] limit under 26 U.S.C. 415(b)(2)(C); and

(b) Percentage[~~solely by reason of this section and shall not fail to meet the percentage~~] limitation under 26 U.S.C. 415(c)(1)(B)[~~solely by reason of this section~~].

(3)

(a) For purposes of this section the term "permissive service credit" shall mean service credit:

1. Recognized by a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan for purposes of calculating a member's benefit under a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan;

2. Which the member has not received under a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan; and

3. Which the member may receive only by making a voluntary additional contribution, in an amount determined under a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan, which does not exceed the amount necessary to fund the benefit attributable to the service credit.

(b) Permissive[~~Effective for permissive~~] service credit contributions made in limitation years beginning after December 31, 1997[~~, the term~~] may include service credit for periods for which there is no performance of service, and, notwithstanding paragraph (a)2 of this subsection, may include service credited[~~in order~~] to provide an increased benefit for service credit which a member is receiving under a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan.

(4) The Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan shall fail to meet the requirements of this section if:

(a) More than five (5) years of nonqualified service credit are taken into account for purposes of this section; or

(b) Any nonqualified service credit is taken into account under this section before the member has at least five (5) years of participation under a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan.

(5) For purposes of subsection (4) of this section,[~~effective~~] for permissive service credit contributions made in limitation years beginning after December 31, 1997,[~~the term~~] "nonqualified service credit" shall be[~~mean~~] permissive service credit other than that allowed with respect to:

(a) Service as an employee of the Government of the United States, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing other[~~(other~~] than military service or service for credit which was obtained as a result of a repayment described in 26 U.S.C. 415(k)(3)[~~26 U.S.C. 415(k)(3))~~];

(b) Service as an employee other[~~(other~~] than that established[~~as an employee described~~] in paragraph (a) of this subsection[~~subsection)~~] of an education organization established[~~described~~] in 26 U.S.C. 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary,[~~or~~] secondary through grade twelve (12)[~~education (through grade 12)~~], or a comparable level of education, pursuant to[~~as determined under~~] the applicable law of the jurisdiction in which the service was performed;

(c) Service as an employee of an association of employees as established[~~who are described~~] in paragraph (a) of this subsection; or

(d) Military service other[~~(other~~] than qualified military service under 26 U.S.C. 414(u)[~~26 U.S.C. 414(u))~~] recognized by the Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan.

(6) Service established[~~For service described~~] in subsection (5)(a), (b), or (c) of this section[~~, the service~~] shall be nonqualified service if recognition of the service would cause a member to receive a retirement benefit for the same service under more than one plan.

(7) For a trustee-to-trustee transfer after December 31, 2001, to which 26 U.S.C. 403(b)(13)(A) or 457(e)(17)(A) applies without[~~(without~~] regard to whether the transfer is made between plans maintained by the same employer, the[~~employer)~~]:

(a) Limitations[~~The limitations~~] of subsection (4)[~~shall~~] of this section shall not apply in determining whether the transfer is for the purchase of permissive service credit; and

(b) Distribution[~~The distribution~~] rules applicable under federal law to a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan shall apply to these amounts and any benefits attributable to these amounts.

(8) For individuals who began membership in a Kentucky Retirement Systems or County Employees Retirement System plan before January 1, 1998[~~an eligible member~~], the 415(c) limit shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan as in effect on August 5, 1997.[~~For purposes of this subsection an eligible member shall be an individual who first became a member in a KRS plan before January 1, 1998~~].

Section 17. Modification of Contributions for 415(c) and 415(n) Purposes. The agency[~~department~~] may modify a request by a member to make a contribution to a Kentucky Retirement Systems or County Employees Retirement System[~~KRS~~] plan if the amount of the contribution would exceed the limits provided in Section 415 by using the methods established in this section[~~following methods:~~]

(1) If the law requires a lump sum payment for the purchase of service credit, the agency[~~Kentucky Retirement Systems~~] may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under 26 U.S.C. 415(c) or 415(n).

(2) If payment pursuant to subsection (1) of this section will not avoid a contribution in excess of the limits imposed by 26 U.S.C. 415(c) or 415(n), the agency[~~Kentucky Retirement Systems~~] may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.

Section 18. Repayments of Cashouts. Any service purchase pursuant to KRS 61.552(3) of repayment of contributions, including interest, is a repayment of a cashout under 26 U.S.C. 415(k)(3) and[~~(including interest thereon) to the KRS plan with respect to an amount previously refunded upon a forfeiture of service credit under the KRS plan or another governmental plan maintained by the State or a local government within the state~~] shall not be taken into account for purposes of the 415(b) or (c) limits.

RYAN BARROW, Executive Director

APPROVED BY AGENCY: December 10, 2025

FILED WITH LRC: January 9, 2026 AT 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2026 at 10:00 a.m. Eastern Time at the Kentucky Public Pensions Authority (KPPA), 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in presenting a public comment at this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be

made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026 and shall receive the same consideration as verbal comments. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. KPPA shall file a response with the Regulations Compiler to any public comments received, whether at the public comment hearing or in writing, via a Statement of Consideration no later than the 15th day of the month following the end of the public comment period, or upon filing a written request for extension, no later than the 15th day of the second month following the end of the public comment period.

CONTACT PERSON: Carole J. Catalfo, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 696-8679, Fax (502) 696-8615, Email: Legal.Non-Advocacy@kyret.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo
Subject Headings: Boards and Commissions, Retirement and Pensions, State Employees
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation concerns the administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415.
(b) The necessity of this administrative regulation: This administrative regulation is necessary for the administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.505(g) authorizes the Kentucky Public Pensions Authority on behalf of Kentucky Retirement Systems and County Employees Retirement System to promulgate administrative regulations necessary or proper in order to carry out the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 and to conform to federal statutes and regulations. 26 U.S.C. 415(c) limits post-tax contributions by a member. This administrative regulation concerns the administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation is primarily technical in nature and adds definitions for "annual benefit" and "annual addition", updates statutory references, clarifies that plans include those from KRS and CERS, and updates language to conform with KRS Chapter 1A drafting requirements.
(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is technical in nature and necessary to add definitions for "annual benefit" and "annual "addition", update references to statutes, clarify that plans include those from KRS and CERS, and update language to conform with KRS Chapter 1A drafting requirements.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 61.505(g) authorizes the Kentucky Public Pensions Authority on behalf of Kentucky Retirement Systems and County Employees Retirement System to promulgate administrative regulations necessary or proper in order to carry out the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 and to conform to federal statutes and regulations. 26 U.S.C. 415(c) limits post-tax contributions by a member. This administrative regulation concerns the administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415.
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation is technical in nature and will assist in the effective administration of the statutes by adding definitions for "annual benefit" and "annual addition", updating statutory references, clarifying that plans include those from KRS and CERS, and updating language to conform with KRS Chapter 13A drafting requirements to establish the administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? (If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.) KRS 61.505 - Amended 2024 Ky. Acts ch. 55, sec. 1, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 28, sec. 1, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 2, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 76, effective April 1, 2021. -- Created 2020 Ky. Acts ch. 79, sec. 2, effective April 1, 2021.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Fewer than 20 each year of approximately 433,461 participants in the Kentucky Employees Retirement System, the State Police Retirement System, and the County Employees Retirement System.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The regulated community will be minimally impacted because the administrative regulation is already being implemented as written. The amendments are primarily technical in nature.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional costs to comply with the amendment because it is already being implemented as written. The amendment is primarily technical in nature.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated community will benefit from definitions of "annual benefit" and "annual addition", updated statutory references and regulatory language, and clarification that plans include those from KRS and CERS.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no additional costs because the regulation is already being implemented as written.
(b) On a continuing basis: There will be no additional costs because the regulation is already being implemented as written.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No, an increase in fees or funding will not be necessary.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? No, tiering is not applied. The administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415 applies to all members.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 61.505(g), 61.645(9)(e), 26 U.S.C. 415
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 61.505(g), 61.645(9)(e)
(3)(a) Identify the promulgating agency and any other affected state

units, parts, or divisions: The promulgating agency is the Kentucky Public Pensions Authority. There are no other affected state units, parts, or divisions. (b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Approximately 433,461 participants in the Kentucky Employees Retirement System, the State Police Retirement System, and the County Employees Retirement System.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This administrative regulation has minimal fiscal impact because it is already being substantially implemented as written.
(b) Methodology and resources used to reach this conclusion: The agency analyzed costs and procedures for the administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No, this administrative regulation will not have a major economic impact as defined by KRS 13A.010(14).
(b) The methodology and resources used to reach this conclusion: The agency analyzed costs and procedures for the administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 26 U.S.C. Section 415
(2) State compliance standards. KRS 61.645(9)(e)
(3) Minimum or uniform standards contained in the federal mandate. The federal standard generally limits annual additions to an individual's defined contribution plan.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation applies the federal standard.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose a stricter standard, or additional or different responsibilities or requirements.

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amendment)

105 KAR 1:430. General compliance with federal tax laws.

RELATES TO: KRS 16.505-16.652, 61.510-61.705, 78.510-78.852, 26 U.S.C. 134, 401(a)(7), (8), (25), 414(d),(p),(u), 503(b)[, Pub.L. 110-245]

STATUTORY AUTHORITY: KRS 61.505(1)(g), 61.645(9)(e), 78.782(9)(d)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority on behalf of Kentucky Retirement Systems and County Employees Retirement System to promulgate administrative regulations that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505 to 61.705, and 78.510 to 78.852. KRS 61.645(9)(e) and 78.782(9)(d) require the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852[requires the Board of Trustees of the Kentucky Retirement Systems to promulgate administrative regulations necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 and] to conform with[to] federal statutes and regulations and meet the qualification requirements under 26 U.S.C. 401(a). This administrative regulation establishes County Employees Retirement System and Kentucky Retirement Systems' compliance with 26 U.S.C. 134, 401(a), 414, and 503(b)[26 U.S.C. 414, Pub.L. No. 110-245, and 26 U.S.C. 503(b)] in order for Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System to maintain their tax qualified status as public defined benefits plans.

Section 1. Compliance with 26 U.S.C. 401(a)(7) and 401(a)(8) for Vesting and Forfeitures.

(1) A plan member shall be 100 percent vested in the member's accumulated contributions at all times.

(2) In conformity with 26 U.S.C. 401(a)(8), any forfeitures of benefits by members or former members of the plan shall:

(a) Not[not] be used to pay benefit increases; and

(b) Be[. However, these forfeitures shall be] used to reduce employer contributions.

(3) Upon termination or partial termination of an affected retirement system, or the complete discontinuance of contributions, a member shall have a nonforfeitable interest in their[his] accrued benefit to the extent funded except as provided by KRS 16.652, 61.692, and 78.852.

Section 2. Compliance with 26 U.S.C. 414(p) for Qualified Domestic Relations Orders. If benefits are payable pursuant to a qualified domestic relations order that meets the requirements of a domestic relations order as defined in 26 U.S.C. 414(p), then the agency shall follow the applicable requirements of 26 U.S.C. 414(p)[shall be followed by the retirement system].

Section 3. Compliance with 26 U.S.C. 134, 401(a)(37, and 414(u)[, 26 U.S.C. 401(a)(37), and Pub.L. No. 110-245] for Reemployed Veterans.

(1) Effective December 12, 1994, notwithstanding any other provision of the retirement system law; contributions, benefits, and service credit with respect to qualified military service shall be governed by 26 U.S.C. 414(u).[and] the Uniformed Services Employment and Reemployment Rights Act of 1994, and the Heroes Earnings Assistance and Relief Tax Act of 2008.

(2) For deaths[~~occurring~~] on or after January 1, 2007[~~,~~] that occur while a member is performing qualified military service as defined by 38 U.S.C. 43[~~(as defined in 38 U.S.C. 43)~~], to the extent required by 26 U.S.C. 401(a)(37), survivors of a member in a state or local retirement or pension system shall be[~~are~~] entitled to any additional benefits that the system would provide if the member had resumed employment and then died, including[~~such as~~] accelerated vesting or survivor benefits that are contingent on the member's qualified military service shall be counted for vesting purposes.

(3) Beginning January 1, 2009, to the extent required by 26 U.S.C. 414(u)(12), an individual receiving differential wage payments as defined in 26 U.S.C. 3401(h)(2) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under 26 U.S.C. 415(c). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Section 4. Compliance with 26 U.S.C. 503(b) for Prohibited Transactions. Effective as of July 1, 1989, the board shall not engage in a transaction prohibited by 26 U.S.C. 503(b).

Section 5. Compliance with 26 U.S.C. 401(a)(25) for Actuarial Assumptions.

(1) Kentucky Public Pensions Authority[~~Retirement Systems~~] shall determine the amount of any benefit that is determined on the basis of actuarial assumptions using assumptions adopted by the board by rule; and

(2) Benefits established in this section[~~these benefits~~] shall not be subject to employer discretion.

Section 6.

(1) In addition to any other vesting provisions under state law, except as provided in KRS 61.535 and 78.540, the normal retirement benefit of a member with nonhazardous service in the Kentucky Employees Retirement System or the County Employees Retirement System shall be nonforfeitable upon the later of:

(a) Attaining the normal retirement age[~~The attainment~~] of age sixty-five (65) years[~~, which is the normal retirement age~~];

(b) For a member whose membership date is on or before August 31, 2008, the completion of four (4) years of service; or

(c) For a member whose membership date is on or after September 1, 2008, five (5) years of service earned pursuant to KRS 16.543(1), 61.543(1), or 78.615(1).

(2) In addition to any other vesting provisions under state law, except as provided in KRS 61.535 and 78.540, the normal retirement benefit of a member of the State Police Retirement System and a member with hazardous service in the Kentucky Employees Retirement System or the County Employees Retirement System shall be nonforfeitable upon the later of:

(a) For a member whose membership date is on or before August 31, 2008:

1. Attaining the normal retirement age of[~~Attainment of age~~] fifty-five (55) years[~~, which is the normal retirement age~~]; or

2. The completion of five (5) years of service; or

(b) For a member whose membership date is on or after September 1, 2008:

1. Attaining the normal retirement age of[~~Attainment of age~~] sixty (60) years[~~, which is the normal retirement age~~]; or

2. The completion of five (5) years of service earned pursuant to KRS 16.543(1), 61.543(1), or 78.615(1).

RYAN BARROW, Executive Director

APPROVED BY AGENCY: December 10, 2025

FILED WITH LRC: January 9, 2026 AT 10:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2026 at 10:00 a.m. Eastern Time at the Kentucky Public Pensions Authority (KPPA), 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in presenting a public comment at this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026 and shall receive the same consideration as verbal comments. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. KPPA shall file a response with the Regulations Compiler to any public comments received, whether at the public comment hearing or in writing, via a Statement of Consideration no later than the 15th day of the month following the end of the public comment period, or upon filing a written request for extension, no later than the 15th day of the second month following the end of the public comment period.

CONTACT PERSON: Carole J. Catalfo, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 696-8679, Fax (502) 696-8615, Email: Legal.Non-Advocacy@kyret.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo

Subject Headings: Boards and Commissions, Retirements and Pensions, State Employees

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes County Employees Retirement System and Kentucky Retirement Systems' compliance with 26 U.S.C. 134, 401(a), 414, and 503(b) in order for Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System to maintain their tax qualified status as public defined benefits plans.

(b) The necessity of this administrative regulation: This administrative regulation is necessary for Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System to maintain their tax qualified status as public defined benefits plans.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority on behalf of Kentucky Retirement Systems and County Employees Retirement System to promulgate administrative regulations that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505 to 61.705, and 78.510 to 78.852. KRS 61.645(9)(e) and 78.782(9)(d) require the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 to conform with federal statutes and regulations and meet the qualification requirements under 26 U.S.C. 401(a). This administrative regulation establishes County Employees Retirement System and Kentucky Retirement Systems' compliance with 26 U.S.C. 134, 401(a), 414, and 503(b) in order for Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System to maintain their tax qualified status as public defined benefits plans.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes County Employees Retirement System and Kentucky Retirement Systems' compliance with 26 U.S.C. 134, 401(a), 414, and 503(b) in order for Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System to maintain their tax qualified status as public defined benefits plans.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation is primarily technical in nature. It corrects and updates federal and state statutory references, and amends language to comply with KRS Chapter 13A drafting requirements.

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

correct and update federal and state statutory references, and amend language to comply with KRS Chapter 13A drafting requirements so that Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System maintain their tax qualified status as public defined benefits plans. (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority on behalf of Kentucky Retirement Systems and County Employees Retirement System to promulgate administrative regulations that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505 to 61.705, and 78.510 to 78.852. KRS 61.645(9)(e) and 78.782(9)(d) require the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 to conform with federal statutes and regulations and meet the qualification requirements under 26 U.S.C. 401(a). This administrative regulation establishes County Employees Retirement System and Kentucky Retirement Systems' compliance with 26 U.S.C. 134, 401(a), 414, and 503(b) in order for Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System to maintain their tax qualified status as public defined benefits plans.
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist in the effective administration of the statutes by correcting and updating federal and state statutory references, and amending language to comply with KRS Chapter 13A drafting requirements, so that Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System maintain their tax qualified status as public defined benefits plans.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? (If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.) KRS 61.505 - Amended 2024 Ky. Acts ch. 55, sec. 1, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 28, sec. 1, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 2, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 76, effective April 1, 2021. -- Created 2020 Ky. Acts ch. 79, sec. 2, effective April 1, 2021. KRS 61.645 - Amended 2024 Ky. Acts ch. 55, sec. 13, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 94, sec. 3, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 12, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 66, effective April 1, 2021. -- Amended 2020 Ky. Acts ch. 79, sec. 4, effective April 1, 2021. KRS 78.782 - Amended 2024 Ky. Acts ch. 55, sec. 26, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 94, sec. 5, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 25, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 29, effective April 1, 2021. -- Created 2020 Ky. Acts ch. 79, sec. 3, effective April 1, 2021.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects approximately 433,461 participants in the Kentucky Employees Retirement System, the State Police Retirement System, and the County Employees Retirement System.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The regulated community will be minimally impacted because the administrative regulation is already being implemented as written. The amendments are primarily technical in nature.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional costs to comply with the amendment because it is already being implemented as written. The amendment is primarily technical in nature.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated community benefit from Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System maintaining their tax qualified status as public defined benefits plans.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no additional costs because the regulation is already being implemented as written.
(b) On a continuing basis: There will be no additional costs because the regulation is already being implemented as written.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No, an increase in fees or funding will not be necessary.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Yes, tiering is applied to the extent that different types of service are subject to different federal requirements.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: . KRS 61.505(1)(g), 61.645(9)(e), and 78.782(9)(d), 26 U.S.C. 134, 401(a), 414, and 503(b)
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 61.505(1)(g), 61.645(9)(e), and 78.782(9)(d)
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Public Pensions Authority. There are no other affected state units, parts, or divisions. (b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): There are no additional regulated entities.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:

For the first year: N/A
For subsequent years: N/A
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This administrative regulation has minimal fiscal impact. It is already being implemented as written.
(b) Methodology and resources used to reach this conclusion: The agency analyzed costs and procedures for conforming with federal statutes and regulations and meeting the qualification requirements under 26 U.S.C. 401(a).
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No, this administrative regulation will not have a major economic impact as defined by KRS 13A.010(14).
(b) The methodology and resources used to reach this conclusion: The agency analyzed costs and procedures for conforming with federal statutes and regulations and meeting the qualification requirements under 26 U.S.C. 401(a).

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 26 U.S.C. 134, 401(a), 414, and 503(b)
(2) State compliance standards. KRS 61.645(9)(e) and 78.782(9)(d)
(3) Minimum or uniform standards contained in the federal mandate. Compliance with 26 U.S.C. 134, 401(a), 414, and 503(b) regarding vesting and forfeitures of benefits, Qualified Domestic Relations Orders, reemployed veterans, actuarial assumptions, and prohibited transactions in order for Kentucky Employees Retirement System, State Police Retirement System, and County Employees Retirement System to maintain their tax qualified status as public defined benefits plans.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No, this administrative regulation does not impose stricter requirements or additional or different responsibilities than those required by the federal mandate.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. this administrative regulation does not impose stricter requirements or additional or different responsibilities than those required by the federal mandate.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(Amendment)

201 KAR 9:305. License renewal and registration; reregistration of inactive licenses; and continuing education requirements for[~~Continued licensure of~~] athletic trainers.

RELATES TO: KRS 311.901(1), 311.905(2) and (5), 311.909(1)(o)
STATUTORY AUTHORITY: KRS 311.565; [~~KRS~~] 311.901(1); 311.905(2) and (5)
CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.901(1) requires the Kentucky Board of Medical Licensure to promulgate administrative regulations relating to the licensure and regulation of athletic trainers, including procedures for licensure renewal and reinstatement and continuing education requirements. This administrative regulation establishes the continuing education requirements and the renewal and reinstatement processes for the continued licensure of athletic trainers.

Section 1. Definition. "CEU" means the completion of ten (10) hours of educational courses approved by the:
(1) Kentucky Board of Medical Licensure; or
(2) Board of Certification, Inc.

Section 2. An athletic trainer licensed to practice in the Commonwealth of Kentucky shall complete six (6) CEUs during each three (3) year renewal cycle beginning with the renewal cycle that ends on June 30, 2015.

Section 3. Renewal of an Active License. On or about May 1, every three (3) years, the executive director shall send by electronic communication ("email") notification to all athletic trainers ("licensees") holding an active regular license to practice as an athletic trainer in the Commonwealth that renewal of their license must be executed on or before June 30 of that same year. The notification shall indicate the renewal fee and shall warn the licensee that failure to timely renew shall cause his or her license to become inactive.

Section 4. Failure to timely renew. If a licensee holding a regular license fails to renew his or her active license on or before June 30 of the year notified, the license shall be considered inactive or cancelled accordingly and continued practice by the athletic trainer shall be considered unauthorized and unlicensed.

Section 5. Activation of Inactive Regular License. Upon failure of a licensee to renew his or her active license before the expiration of the time allowed for late renewal, the license shall become inactive and continued practice by the athletic trainer shall be considered unauthorized and unlicensed. At any subsequent time, the holder of an inactive license may apply to activate his or her inactive license by paying the fee for activation of an inactive license, and satisfactorily completing the forms necessary for obtaining sufficient information concerning the athletic trainer's present fitness to practice.

Section 6. All notifications required to be sent by this administrative regulation shall be sent by email to the licensee's last known self-entered email address of which the board has record. Failure of the licensee to receive notice if emailed to the licensee's last known self-entered email address shall not excuse the licensee from compliance with the statutes or this administrative regulation.

WILLIAM C. THORNBURY, M.D., PRESIDENT
APPROVED BY AGENCY: December 18, 2025
FILED WITH LRC: January 12, 2026 at 10:00 a.m.

CONTACT PERSON: Leanne K. Diakov, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, phone (502)764-2613, fax (502) 429-7118, email leanne.diakov@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leanne K. Diakov
Subject Headings: Occupations and Professions, Physicians and Practitioners, Licensing
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the continuing education requirements and the renewal and reinstatement processes for continued licensure of athletic trainers.
(b) The necessity of this administrative regulation: It is necessary to promulgate this regulation to establish for athletic trainer licensees the continuing education requirements and the renewal and reinstatement processes for continued licensure.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms with KRS 311.905(1)(c) and (n) by setting forth the procedures for licensure renewal and reinstatement and continuing education requirements.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation acts specifically to set forth required number of continuing education credits per cycle and the processes, timelines and procedures for renewal and reinstatement of athletic trainer licenses.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative

regulation: The amendments are specific in setting forth processes and timelines for renewal and reinstatement of athletic trainer licenses. This information was not previously set forth in regulation but it is the same as administratively applied by the agency for years.
(b) The necessity of the amendment to this administrative regulation: It was necessary to amend the regulation in order to ensure that licensees have clear notice and understanding of the processes and timelines for renewal and reinstatement of athletic trainer licenses.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment acts specifically to set forth the procedures for licensure renewal and reinstatement pursuant to KRS 311.901(1)(c).
(d) How the amendment will assist in the effective administration of the statutes: The amendments assist the agency with enforcing the processes and timelines for renewal and reinstatement of athletic trainer licenses by giving licensees fair and clear notice of those processes and timelines. It sets clear expectations between the agency and its licensees.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect approximately 2,353 active and inactive athletic trainer licenses in the Commonwealth of Kentucky.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The amendment sets forth administrative processes and timelines already in place (and have been for years) but gives licensees reassurance and clarity in knowing how and when to comply.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no new or additional costs to licensees associated with the amendment of this administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Athletic trainer licensees benefit by knowing how and when to comply with renewal and reinstatement processes.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: None.
(b) On a continuing basis: None.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: N/A
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase of fees or funding will be necessary.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any new fees nor does it directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311.901(1)(c) and (n) and 311.905(2) and (5)
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: 2020 Kentucky Laws Ch. 61 (SB 125)
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Medical Licensure
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): None
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Athletic Trainers (ATs)
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: The amendment of this administrative regulation will not have a major fiscal impact on state or local government or regulated entities. (The amendment does not alter or increase an already-existing fee schedule set forth in 201 KAR 9:307.)
(b) Methodology and resources used to reach this conclusion: N/A
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): The amendment of this administrative regulation will not have a major fiscal impact on state or local government or regulated entities.
(b) The methodology and resources used to reach this conclusion: N/A

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 3:012. Public use of Otter Creek Outdoor Recreation Area.

RELATES TO: KRS 150.010, 150.240, 150.620, 150.640, 150.990
STATUTORY AUTHORITY: KRS 150.025(1), 150.240(2), 150.620
CERTIFICATION STATEMENT: The Kentucky Department of Fish and Wildlife Resources, pursuant to statutory authority to promulgate administrative regulations to carry out the provisions of KRS Chapter 150 as established in KRS 150.025 and as an independent department of state government within the meaning of KRS Chapter 12 as established in KRS 150.021(1), promulgated by the Commissioner with approval of the Commission in accordance with KRS 150.010(1), does hereby certify this administrative regulation is promulgated in compliance with Section 8 of 2025 RS HB6.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits, and to make these requirements apply to a

limited area. KRS 150.240(2) authorizes the department to promulgate administrative regulations to establish permits for public or commercial shooting areas. KRS 150.620 authorizes the department's Commission to acquire, improve, and maintain lands for public shooting, fishing, and other recreational uses, to impose and enforce special regulations in the maintenance and operation of these lands, to pay for the cost of the operations and maintenance of these areas, and to charge fair and reasonable fees to the public for use of these areas. This administrative regulation establishes requirements for the use of the Otter Creek Outdoor Recreation Area.

[~~Section 1.~~] [~~Definitions.~~]

[~~(1)~~] [~~"Camp Piomingo" means a designated area within Otter Creek Outdoor Recreation Area that is leased from the department for an outdoor summer camp.~~]

[~~(2)~~] [~~"Event" means a planned gathering of thirty (30) or more people twelve (12) years or older on the area at the same time.~~]

[~~(3)~~] [~~"Shooting range" means a department built:~~]

[~~(a)~~] [~~Firearm target range facility in which a person is required to shoot through a metal tube at various stationary targets; or~~]

[~~(b)~~] [~~Archery range facility in which a person shoots at stationary targets from specified locations.~~]

Section 1.[~~Section 2.~~] General Area Use Restrictions.

(1) A person, except for permit exempt individuals, shall possess and carry:

(a) A valid daily or annual Area Entry Permit when using the Otter Creek Outdoor Recreation Area; and

(b) A valid daily or annual Special Activities Permit if:

1. Biking on designated trails;

2. Horseback riding on designated trails; or

3. Using designated shooting range facilities, except individuals possessing a valid shooting range permit shall not be required to possess a Special Activities Permit when using designated shooting range facilities.

(2) A shooting range permit shall not be required of a person who holds an Area Entry Permit and Special Activities Permit, however the person shall follow safety rules and provisions for use of a shooting range as established in 301 KAR 3:015.

(3)[~~(2)~~] [~~.~~] The department may enter into a lease agreement with Camp Piomingo to establish an annual flat-rate fee that allows permit-exempt use of the area by Camp Piomingo:

(a) Campers; and

(b) Staff.

(4)[~~(3)~~] A person shall not be on the area when the area is closed, except for:

(a) Registered campers at the designated campground area;

(b) Authorized hunters;

(c) Department staff;

(d) Department authorized contractors; or

(e) Individuals taking part in a special activity or event authorized by the department.

(5)[~~(4)~~] The department shall notify the public when the area is closed by:

(a) A pre-recorded phone message;

(b) An internet posting; and

(c) Visible signage on the area.

(6)[~~(5)~~] A person shall park vehicles in designated parking areas only.

(7)[~~(6)~~] A person who is hunting, fishing, trapping, or boating on the area shall follow all applicable administrative regulation requirements pursuant to 301 KAR Chapters 1, 2, 3, and 6;

(8)[~~(7)~~] The area shall be closed to the general public, except for authorized hunters, during:

(a) A firearms deer quota hunt pursuant to 301 KAR 2:178; and

(b) Spring turkey season, pursuant to 301 KAR 2:142.

(9)[~~(8)~~] The following activities are prohibited without prior department authorization:

(a) Cutting or removing live or standing trees, shrubs, or other vegetation;

(b) Riding motorized all-terrain or off-highway vehicles;

(c) Allowing unleashed dogs, except at times and areas designated by the department;

(d) Camping, except in designated areas;

(e) Setting fires, except for attended fires:

1. In designated camping areas; or

2. In grills at designated picnic areas.

(f) Blocking a roadway or gate;

(g) Igniting fireworks or rockets;

(h) Participating in a commercial activity or endeavor;

(i) Damaging or destroying crops or wildlife food plots;

(j) Damaging or defacing buildings, structures, signs, or other property;

(k) Hunting in an area closed to hunting;

(l) Tethering a horse to a tree, shrub, or sign; or

(m) Discharging a firearm:

1. Within 100 yards of a building;

2. Except on a designated firearm shooting range; or

3. Except during an authorized hunting season in an authorized hunting area.

Section 2.[~~Section 3.~~] Trail Requirements.

(1) A person shall only ride a horse or bike on designated trails or roadways.

(2) A person shall not possess a wheeled vehicle other than a bike on a designated bike trail, except for department authorized maintenance activities.

(3) A person shall not ride a bike or a horse on designated trails that have been temporarily closed by the department due to:

(a) Hunting activity;

(b) Wet conditions;

(c) Trail maintenance activity;

(d) Downed trees;

(e) Unsafe conditions; or

(f) An event authorized by the department.

(4) The department shall provide the public with a reasonable notification system for temporary trail closures that includes:

(a) A pre-recorded phone message;

(b) An internet posting; and

(c) Visible signage on the area.

Section 3.[~~Section 4.~~] Event Permits.

(1) A group of people conducting an event shall not meet on the area without first applying for and obtaining a completed Event Permit from the department.

(2) A person, on behalf of the people involved with an event, shall apply for an Event Permit at least thirty (30) days in advance of the planned event.

(3) The application for an Event Permit shall be on a form provided by the department.

(4) The department shall deny an Event Permit if the planned activity or event:

(a) Is prohibited pursuant to this administrative regulation; or

(b) Is in conflict with:

1. Another Event Permit activity already authorized by the department;

2. A hunting season;

3. A quota hunt; or

4. Recreational use of the area.

Section 4.[~~Section 5.~~] Incorporation by Reference.

(1) "Otter Creek Event Permit Application", 2011 Edition, is incorporated by reference.

(2) The permit application may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. Eastern Time or online at:Otter Creek Event Permit Application:https://fw.ky.gov/Wildlife/Documents/Otter-Creek-Event-Permit-Application.pdf

APPROVED by the Fish and Wildlife Commission
RICH STORM, Commissioner
APPROVED BY AGENCY: January 14, 2026
FILED WITH LRC: January 15, 2026 at

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 26, 2026, at 10:00 a.m., at KDFWR Administration Building, 1 Sportsman's Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert
Subject Headings: Fish and Wildlife, Conservation, Land Use
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a permit for public use of the Otter Creek Outdoor Recreation Area and places necessary restrictions on its use by the public.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish a permit for public use of the Otter Creek Outdoor Recreation Area and places necessary restrictions on its use by the public.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.620 authorizes the department to acquire lands for public use, to promulgate administrative regulations for their management, and to charge fees for their use. KRS 150.195(4)(f) and (g) authorize the department to establish the term and manner of license and permit sales. KRS 150.025(1) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 150.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the manner in which the public can safely use the Otter Creek Outdoor Recreation Area and places necessary restrictions on its use by the public.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment outlines an exemption for the shooting range permit required in 301 KAR 3:015 with the purchase of an annual or daily Otter Creek Outdoor Recreation Area Entry permit. This amendment also removes the definitions section since Chapter 3 has a definition regulation.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to comply with the provisions in 301 KAR 3:015 and ensure the public is not over charged for permits to participate in activity on the Otter Creek Outdoor Recreation Area
(c) How the amendment conforms to the content of the authorizing statutes: KRS 150.025(1) grants authority for the department to promulgate regulations necessary to carry out the purposes of KRS Chapter 150. KRS 150.175 sets out licenses and tags to be sold by the department. KRS 150.195 requires the department to establish administrative regulations to provide for the control, design, issuance, distribution, and other matters related to licenses and permits issued by the department.
(d) How the amendment will assist in the effective administration of the statutes: This amendment outlines the public use for a specific area of land owned or managed by the department and outlines the permits required for use.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals who which to obtain the associated permit.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No action will be required to comply with the amendments.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no cost to comply with the amendments to this regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Compliance with these amendments will allow individuals to use the shooting range on the Peabody Wildlife Management Area without acquiring an extra permit.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no cost to implement these regulatory amendments initially.
(b) On a continuing basis: There will be no continuing costs to implement these amendments.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Fish and Game Fund.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be no increase in fees or funding necessary to implement these changes.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fee increases established in this amendment.
(10) TIERING: Is tiering applied? Tiering is not applicable to this amendment.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 150.620 authorizes the department to acquire lands for public use, to promulgate administrative regulations for their management, and to charge fees for their use. KRS 150.195(4)(f) and (g) authorize the department to establish the term and manner of license and permit sales. KRS 150.025(1) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 150.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This amendment is not expressly authorized by an act of the General Assembly but is promulgated pursuant to KRS 150.025 and 150.195.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: No other state agencies are affected.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A

3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No other entities should be affected by these amendments.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This amendment will not have any significant fiscal impact.
(b) Methodology and resources used to reach this conclusion: This amendment does not modify any fees or require affected entities to expend funds to comply with the amendments.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: This amendment does not increase any fees or otherwise create a financial burden to state or local government agencies or to regulated entities.

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 3:013. Peabody Wildlife Management Area use requirements and restrictions.

RELATES TO: KRS 150.250, 150.620, 150.990
STATUTORY AUTHORITY: KRS 150.025(1), 150.195(4)(f), (g), 150.620
CERTIFICATION STATEMENT: The Kentucky Department of Fish and Wildlife Resources, pursuant to statutory authority to promulgate administrative regulations to carry out the provisions of KRS Chapter 150 as established in KRS 150.025 and as an independent department of state government within the meaning of KRS Chapter 12 as established in KRS 150.021(1), promulgated by the Commissioner with approval of the Commission in accordance with KRS 150.010(1), does hereby certify this administrative regulation is promulgated in compliance with Section 8 of 2025 RS HB6.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.620 authorizes the department to acquire lands for public use, to promulgate administrative regulations for their management, and to charge fees for their use. KRS 150.195(4)(f) and (g) authorize the department to establish the term and manner of license and permit sales. KRS 150.025(1) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 150. This administrative regulation establishes a permit for public use of the Peabody Wildlife Management Area and places necessary restrictions on its use by the public.

[~~Section 1.~~] [~~Definitions.~~]
[~~(1)~~)] [~~"The area" means the Peabody Wildlife Management Area.~~]
[~~(2)~~)] [~~"Group" means a family, organization, or gathering using the area for a specific event.~~]
[~~(3)~~)] [~~"The Peabody Wildlife Management Area" means the lands in Hopkins, Ohio, and Muhlenberg Counties owned or managed by the Department of Fish and Wildlife Resources.~~]
[~~(4)~~)] [~~"Permanent structure" means a blind, pit, stand, or other structure left in place for more than twenty-four (24) hours.~~]

Section 1.[~~Section 2.~~] Permits Required. Except as established in Sections 3 and 4 of this administrative regulation, a person sixteen (16) years or older while on the Peabody Wildlife Management area (PWMA) in Hopkins, Ohio, and Mulhenburg Counties owned or managed by the Department of Fish and Wildlife Resources shall:
(1) Have in his or her possession a Peabody Wildlife Management Area user permit; or
(2) Be a member of a group with an event permit, either an individual event permit or annual event permit.

Section 2.[~~Section 3.~~] Individual and Annual Event Permits.
(1) In lieu of individual user permits, a person representing a group using the PWMA[~~area~~] shall have in possession both an event permit and the Wildlife Management Area Use Permit[~~area use permit~~] as established in 301 KAR 3:010, Section 5[~~6~~].
(2) An event permit shall:
(a) Apply to each member of the group;
(b) Specify:
1. If it is an individual event permit, its period of validity, not to exceed four (4) days or, if it is an annual event permit, the dates the permit is not valid;
2. The activities in which the group will engage;
3. The name of the group; and
4. The name and address of an individual representing the group.
(3) The department may:
(a) Limit the number of event permits issued; or
(b) Assign a specific location for an event.
(4) The department shall:
(a) Deny the application for an event which would interfere with:
1. A management objective for the PWMA[~~area~~]; or
2. Other uses or users; or
(b) Revoke individual or event permits for violations of the terms of the application or this administrative regulation; and
(c) Not issue an event permit for an event at which wildlife is taken.

Section 3.[~~Section 4.~~] Permit Exceptions. An individual or event permit shall not be required of a person:
(1) On official business and employed by or an agent of:
(a) Peabody Coal Company;
(b) Beaver Dam Coal Company;
(c) Peabody Holding Company; or
(d) The Kentucky Department of Fish and Wildlife Resources:
(2) En route through the PWMA[~~area~~] on a state or county road; or
(3) On the PWMA[~~area~~]:
(a) As a necessary part of his or her job; or
(b) For the protection of public safety or well-being.
(4) A shooting range permit shall not be required of a person who:
(a) Holds a Peabody Wildlife Management Area use permit; or
(b) Is a member of a group that holds a Peabody WMA Event Permit and a Wildlife Management Area Use Permit, pursuant to 301 KAR 3:010, Section 5, for an event on the shooting range.
(5) All individuals shall follow safety rules and provisions for use of a shooting range as established in 301 KAR 3:015.

Section 4.[~~Section 5.~~] Permit Applications.
(1) An applicant for an individual permit shall:
(a) Apply at an authorized license agent; and
(b) Pay the fee as referenced at https://fw.ky.gov/Licenses/Pages/Fees.aspx and established in 301 KAR 5:022.
(2) An applicant for an event permit shall:
(a) Apply on the Peabody WMA Event[~~Wildlife Management Area~~] Permit Application; and
(b) Pay the fee as referenced at https://fw.ky.gov/Licenses/Pages/Fees.aspx and established in 301 KAR 5:022.
(3) The department shall keep applications and copies of event permits issued in a retrievable form for a minimum of one (1) year after the permits expire.

Section 5.[~~Section 6.~~] Prohibited Activities. While on the PWMA[~~area~~], a person shall not:

(1) Swim for recreational purposes;

(2) Camp, except in a primitive fashion along an existing road;

(3) Leave a campfire unattended;

(4) Operate a motorized vehicle:

(a) Off an existing road; or

(b) Where prohibited by signs;

(5) Block a road or gate;

(6) Park, except in a designated parking area unless none are available;

(7) Park or camp within 100 feet of well heads;

(8) Target shoot, except at a designated area;

(9) Construct a permanent structure;

(10) Leave a temporary blind or stand in place overnight;

(11) Operate a boat:

(a) With a centerline exceeding eighteen (18) feet six (6) inches in length, except:

1. A canoe shall not have a length restriction; and

2. A pontoon boat shall not exceed twenty-two (22) feet in length

(b) At greater than idle speed; or

(c) With an internal combustion engine on:

1. Goose Lake;

2. Island Lake; or

3. South Lake.

Section 6.[~~Section 7.~~] Incorporation by Reference.

(1) "Peabody WMA Event[~~Wildlife Management Area~~] Permit Application", May 2025; is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane[~~Game Farm Road~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or online at: https://fw.ky.gov/Licenses/Documents/Peabody-Event-Permit-App.pdf.

APPROVED by the Fish and Wildlife Commission
RICH STORM, Commissioner
APPROVED Y AGENCY: January 14, 2026

FILED WITH LRC: January 15, 2026 at 10:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 26, 2026, at 9:30 a.m., at KDFWR Administration Building, 1 Sportsman's Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert
Subject Headings: Fish and Wildlife, Conservation, Land Use
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a permit for public use of the Peabody Wildlife Management Area and places necessary restrictions on its use by the public.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish a permit for public use of the Peabody Wildlife Management Area and places necessary restrictions on its use by the public.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.620 authorizes the department to acquire lands for public use, to promulgate administrative regulations for their management, and to charge fees for their use. KRS 150.195(4)(f) and (g) authorize the department to establish the term and manner of license and permit sales. KRS 150.025(1) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 150.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the manner in which the public can safely use of the Peabody Wildlife Management Area and places necessary restrictions on its use by the public.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment outlines an exemption for the shooting range permit required in 301 KAR 3:015 with the purchase of a Peabody Wildlife Management Area use permit. This amendment also removes the definitions section since Chapter 3 has a definition regulation.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to comply with the provisions in 301 KAR 3:015 and ensure the public is not over charged for permits to participate in activity on the Peabody Wildlife Management Area.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 150.025(1) grants authority for the department to promulgate regulations necessary to carry out the purposes of KRS Chapter 150. KRS 150.175 sets out licenses and tags to be sold by the department. KRS 150.195 requires the department to establish administrative regulations to provide for the control, design, issuance, distribution, and other matters related to licenses and permits issued by the department.
(d) How the amendment will assist in the effective administration of the statutes: This amendment outlines the public use for a specific area of land owned or managed by the department and outlines the permits required for use.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? {If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.} No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals who which to obtain the associated permit.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No action will be required to comply with the amendments.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no cost to comply with the amendments to this regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Compliance with these amendments will allow individuals to use the shooting range on the Peabody Wildlife Management Area without acquiring an extra permit.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no cost to implement these regulatory amendments initially.
(b) On a continuing basis: There will be no continuing costs to implement these amendments.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The Fish and Game Fund
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be no increase in fees or funding necessary to implement these changes.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fee increases established in this amendment.

(10) TIERING: Is tiering applied? Tiering is not applicable to this amendment.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 150.620 authorizes the department to acquire lands for public use, to promulgate administrative regulations for their management, and to charge fees for their use. KRS 150.195(4)(f) and (g) authorize the department to establish the term and manner of license and permit sales. KRS 150.025(1) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 150.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This amendment is not expressly authorized by an act of the General Assembly but is promulgated pursuant to KRS 150.025 and 150.195.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: No other state agencies are affected.
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): No other entities should be affected by these amendments.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This amendment will not have any significant fiscal impact.
(b) Methodology and resources used to reach this conclusion: This amendment does not modify any fees or require affected entities to expend funds to comply with the amendments.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: This amendment does not increase any fees or otherwise create a financial burden to state or local government agencies or to regulated entities.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(Amendment)

781 KAR 1:010. Office of Vocational Rehabilitation appeal procedures.

RELATES TO: KRS 151B.190, 151B.200, 34 C.F.R. Part 361, 29 U.S.C. 722
STATUTORY AUTHORITY: KRS 13B.170, 151B.195(1), 29 U.S.C. 722(c)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 13B.170 authorizes an agency to promulgate administrative regulations that are necessary to carry out the provisions of KRS Chapter 13B concerning administrative hearings. 29 U.S.C. 722(c) requires state procedures for the review of determinations made by rehabilitation personnel for basic rehabilitation services. Pursuant to KRS 151B.200, the Commonwealth of Kentucky, agreed to comply with all provisions relating to Federal Vocational Rehabilitation Acts. KRS 151B.195(1) authorizes the commissioner to promulgate administrative regulations for the department. This administrative regulation establishes hearing and appeal procedures for a person seeking vocational rehabilitation benefits.

Section 1. [~~Definitions.~~]
[~~(1)~~] [~~"Administrative hearing" is defined by KRS 13B.010(2).~~]
[~~(2)~~] [~~"Administrative review" means an informal process through which office personnel not involved in the initial decision conduct a review of an office decision to ensure the decision complies with office policy.~~]
[~~(3)~~] [~~"Appellant" means an applicant, potentially eligible, or eligible individual who requests an appeal of an office decision in accordance with this section.~~]
[~~(4)~~] [~~"Applicant" means an individual who submits an application for vocational rehabilitation services.~~]
[~~(5)~~] [~~"Branch manager" means the office staff who is responsible for the operations of an office branch.~~]
[~~(6)~~] [~~"Case record" means the official written or electronic record of the vocational rehabilitation case of an applicant, potentially eligible, or eligible individual.~~]
[~~(7)~~] [~~"Competitive integrated employment" is defined by 34 C.F.R. 361.5(c)(9).~~]
[~~(8)~~] [~~"Eligible individual" means an applicant for vocational rehabilitation services who the office determines is an individual with a disability who requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.~~]
[~~(9)~~] [~~"Executive director" means the Executive Director of the Office of Vocational Rehabilitation.~~]
[~~(10)~~] [~~"Hearing officer" is an individual who meets the qualifications established in KRS 13B.010(7) and who has knowledge of the laws applicable to the office.~~]
[~~(11)~~] [~~"Office" means the Office of Vocational Rehabilitation.~~]
[~~(12)~~] [~~"Office Appeal Form" means the office form incorporated by referenced and used by an applicant, potentially eligible, or eligible individual to request an appeal of an office decision.~~]
[~~(13)~~] [~~"Potentially eligible individual" means an individual who might be eligible for vocational rehabilitation services, but whose eligibility has not yet been determined.~~]
[~~(14)~~] [~~"Secretary" means the Secretary of the Education and Labor Cabinet.~~]

[~~Section 2.~~] Right to Appeal.
(1) The office shall notify every[~~, applicant, potentially eligible individual, or eligible~~] individual in writing:

(a) That they have[~~that the individual has~~] the right to appeal any determination made by the office that affects the provision, denial, reduction, suspension, or cessation of that individual's vocational rehabilitation services;[~~.~~]

(b) That they have the right to pursue mediation, which shall be conducted by a qualified mediator selected in accordance with 34 C.F.R. 361.57(d);

(c) The names and addresses of individuals with whom requests for mediation or hearings may be filed;

(d) That an impartial hearing officer shall be selected in accordance with 34 C.F.R. 361.57(e); and

(e) The availability of the client assistance program.

(2) This notice shall be provided:

(a) At the time an individual applies for vocational rehabilitation services;

(b) At the time the individual is assigned to a priority category in order of selection;

(c) At the time the individualized plan of employment is developed or amended; and

(d) Whenever vocations rehabilitation services for an individual are reduced, suspended, or terminated.[~~The office shall provide to every applicant, potentially eligible individual, or eligible individual:~~]

[~~(a)~~] [~~As established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, the procedure for requesting an appeal, including the name and address of office staff to whom a request for appeal shall be submitted; and~~]

[~~(b)~~] [~~The Office Appeal Form.~~]

(3) A request for appeal shall be [~~submitted using the Office Appeal Form and shall be~~]submitted to the office within fourteen (14) days of receipt of written notice of an office decision[~~, or receipt of verbal notice of an office decision, as determined by the date in the case record~~]. A timely request for appeal may be submitted via US Mail, email or telephonically.

(4) As required by 34 C.F.R. 370.3, an individual[~~An appellant~~] shall have the right to be represented by an advocate or attorney at all appellate proceedings, and the individual[~~appellant~~] shall bear all cost for representation.

(5) Upon receipt of an appeal[~~a request for an administrative hearing~~], the office shall:

(a) Conduct an informal administrative review of the decision on appeal;[~~prior to the administrative hearing; and~~]

(b) Offer the individual an opportunity to participate in mediation if the individual disagrees with the findings of the informal administrative review; and

(c)[~~(b)~~] If the matter is not resolved through the administrative review or mediation, convene[~~Convene~~] an administrative hearing within sixty (60) days, except that an[~~a time~~]extension, not to exceed one (1) year, shall be granted upon agreement by both parties.

(6) During an appeal, the office shall not suspend, reduce, or terminate services provided under the individualized plan for employment unless:

(a) It has evidence that the service was obtained through:

1. Misrepresentation;
2. Fraud;
3. Collusion; or
4. Criminal conduct; or

(b) The individual[~~appellant~~] requests the action.

Section 2.[~~Section 3.~~] Informal Administrative Review.

(1) Upon receipt of an appeal[~~a notice of appeal, the office shall conduct an informal administrative review of the decision.~~]

[~~(2)~~] [~~The director or designee shall select~~] a branch manager not involved in the decision[~~action~~] in question [~~who~~]shall conduct the administrative review of the decision within ten (10) days.

(2)[~~(3)~~] The administrative review shall be conducted either in person or by teleconference, and the individual[~~appellant~~] shall be invited to participate.

(3)[~~(4)~~] A written determination shall be sent to the individual[~~The branch manager shall issue a written a determination~~] within five (5) business days [~~and notify the appellant~~]via electronic mail or U.S. Mail.

Section 3.[~~Section 4.~~] Mediation.

(1) The individual[~~appellant~~] shall have the right to participate in mediation before an administrative hearing is convened.

(2) [~~The office shall maintain a list of qualified mediators.~~]

[~~(3)~~] If mediation is requested, the office shall:

(a) Schedule[~~Choose a mediator from the list and schedule~~] the mediation for a date prior to an administrative hearing;

(b) Convene the mediation in a location convenient to the office and the individual, if in person, or virtually,[~~appellant~~] and provide reasonable accommodations if requested;

(c) Bear the cost of mediation; and

(d) Send a representative of the office to the mediation who is authorized to bind the office to an agreement.

(3)[~~(4)~~] The individual[~~appellant~~] shall attend the mediation.

(4)[~~(5)~~] Discussions or agreements arising from the mediation shall be confidential and shall not be used as evidence in any subsequent administrative hearing or civil proceeding.

(5)[~~(6)~~] An agreement reached by the parties through mediation shall be documented in writing and[~~,~~] signed by both parties[~~prior to the conclusion of the mediation, and a copy shall be issued to both parties~~].

(6) Mediation is voluntary and shall not be used to delay the scheduling of an impartial hearing.

Section 4.[~~Section 5.~~] Administrative Hearing. If the individual is not satisfied with the outcome of the informal administrative review process, did not choose to participate in mediation or if the mediation was unsuccessful, the[~~The~~] office shall conduct an administrative hearing in accordance with KRS Chapter 13B.[~~ and Section 2 of this administrative regulation if the appellant elects not to participate in mediation or if the mediation did not result in an agreement.~~]

[~~Section 6.~~] [~~Client Assistance Program. The office shall advise an applicant, potentially eligible individual, or eligible individual of:~~]

[~~(1)~~] [~~The existence of the Client Assistance Program;~~]

[~~(2)~~] [~~The services provided by the program; and~~]

[~~(3)~~] [~~How to contact a program representative.~~]

[~~Section 7.~~] [~~Findings and Decision.~~]

[~~(1)~~] [~~The hearing officer shall issue a recommended order in accordance with KRS 13B.110.~~]

[~~(2)~~] [~~Either party shall have the right to submit exceptions to the recommended order to the secretary as established in KRS 13B.110.~~]

[~~(3)~~] [~~The secretary or designee shall issue the final order in accordance with KRS 13B.120.~~]

[~~Section 8.~~] [~~Incorporation by Reference.~~]

[~~(1)~~] [~~"Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual", June 2022, is incorporated by reference.~~]

[~~(2)~~] [~~This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Vocational Rehabilitation, 500 Mero Street 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.~~]

[~~(3)~~] [~~This material is also available at kcc.ky.gov/vocational-rehabilitation.~~]

VICKIE WISE, Deputy Secretary

APPROVED BY AGENCY: December 30, 2025

FILED WITH LRC: December 31, 2025 at 12:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 24, 2026 at 11:00 am, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, KY 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brooke McDaniel
Subject Headings: Administrative Hearings, Disability and Disabilities, Workforce Development
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements for the Office of Vocational Rehabilitation's mediation and administrative hearing process as required by 29 U.S.C. § 722 and KRS 13B.
(b) The necessity of this administrative regulation: Changes to the regulation are needed to ensure individuals who apply for and receive vocational rehabilitation services understand their right to appeal a decision made by the Office and the administrative appeal process required to comply with 29 U.S.C. §722 and KRS 13B.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides information necessary for the Office of Vocational Rehabilitation to provide mediation and impartial due process rights as required by 29 U.S.C. § 722 and KRS 13B.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides information necessary for the Office of Vocational Rehabilitation to provide mediation and impartial due process rights as required by 29 U.S.C. § 722 and KRS 13B.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The proposed amendments are made to provide a better understanding to individuals who apply for and receive vocational rehabilitation services about their due process rights as set forth in 29 U.S.C. § 722 and KRS 13B.
(b) The necessity of the amendment to this administrative regulation: Changes to the regulation are needed to ensure individuals who apply for and receive vocational rehabilitation services understand their right to appeal a decision made by the Office of Vocational Rehabilitation and the administrative appeal process required to comply with 29 U.S.C. § 722 This administrative regulation provides information necessary for the Office of Vocational Rehabilitation to provide mediation and impartial due process rights as required by 29 U.S.C. § 722 and KRS 13B. (c) How the amendment conforms to the content of the authorizing statute: This amendment conforms to the authorizing statute by outlining the requirements for the mediation and administrative hearing process required by 29 U.S.C. § 722 and KRS 13B.
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes: This amendment provides specific information to individuals who apply for and receive vocational rehabilitation services about their federally guaranteed due process rights and the procedures used by the Office of Vocational Rehabilitation to ensure compliance with the due process requirements of 29 U.S.C. § 722 and KRS 13B.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No person or entity is required to take action as a result of this amendment.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There is no cost associated with this proposed amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated individuals will have a better understanding of their due process rights under state and federal law.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The proposed amendment does not result in additional costs.
(b) On a continuing basis: The proposed amendment does not result in additional costs.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds received by the Office of Vocational Rehabilitation and the required state match funds; however, there are no additional costs as a result of this proposed amendment.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this proposed amendment.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This proposed amendment does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all individuals who appeal a decision made by the Office of Vocational Rehabilitation.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: 29 U.S.C. § 722, KRS 13B.170 and KRS 151B.195(1).
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 13B.170 and KRS 151B.195(1).
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None

3. Cost Savings:
For the first year: None
For subsequent years: None (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a): Not applicable.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(Amendment)

781 KAR 1:020. General provisions for operation of the Office of Vocational Rehabilitation.

RELATES TO: KRS 138.170, 151B.185, 151B.190, 151B.195, 151B.200, 34 C.F.R. Part 361[~~361.42,~~][~~361.49~~], 29 U.S.C. 721, 722, 723
STATUTORY AUTHORITY: KRS 151B.185, 151B.195(1), 151B.200
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.200 authorizes the office to comply with federal acts relating to vocational rehabilitation when these acts apply to joint state and federally funded vocational rehabilitation programs. KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing services, personnel, and administration of the State Vocational Rehabilitation Agency. This administrative regulation establishes general criteria for the provision of rehabilitation services and is necessary[~~in order~~] to distribute limited funds available for that purpose.

Section 1. Application.
(1) An individual shall be considered an applicant for vocational services when the individual:
(a) Submits a request for vocational rehabilitation services, including completion of an OVR-2, Application for Services, or other expression of intent to apply;
(b) Provides the basic information necessary to initiate an eligibility determination, consistent with 34 C.F.R. 361.41(b)(2); and
(c) Is available to participate in the assessment process required under 34 C.F.R. 361.41.
(2) The office shall make a reasonable effort to contact individuals referred for services and offer them the opportunity to apply.
(3) An application shall be dated as of the date the request for services is received by the office.
(4) Prior to determination of eligibility, the office may require verification of identity and of employment authorization sufficient to establish that the individual is legally permitted to work in the United States.
(a) If the individual cannot establish legal authorization to work, the office shall find the individual ineligible for services in accordance with this administrative regulation; and
(b) The office shall provide information and referral services to individuals who are ineligible on this basis, as required by federal law.
(5) The office may accept applications from individuals who reside outside of Kentucky if the individual is available to participate fully in the rehabilitation process, including assessment for eligibility and rehabilitation needs.
(6) Applications may be accepted from individuals who are incarcerated if the individual is reasonably expected to become available to participate in an eligibility determination and vocational rehabilitation services upon release.
(7) Electronic Communication. The office may communicate electronically with individuals, including by email or text message, if the individual has provided informed consent for that method of communication. The individual may revoke consent at any time. The individual's communication preferences shall be documented in the case record. If an individual changes their preferred email, they shall notify the office.
(8) The office shall provide each individual with information regarding program rights and responsibilities, including appeal procedures, consistent with 34 C.F.R. 361.38(b).
(9) If an individual has a guardian or legal representative, the individual shall inform the office and provide appropriate documentation. Any reference to individual in these regulations includes a guardian or legal representative, if applicable.

[~~Section 1.~~] [~~Definitions.~~]
[~~(1)~~] [~~"Applicant" means an individual who has signed a letter or document requesting vocational rehabilitation services and who is available to complete an assessment.~~]
[~~(2)~~] [~~"Eligible individual" means an individual with a disability who has been determined by the office to meet the basic conditions of eligibility for vocational rehabilitation services as defined in 34 C.F.R. 361.42.~~]
[~~(3)~~] [~~"Occupational equipment" means equipment essential to perform the job duties at the job site and required as a condition of employment.~~]
[~~(4)~~] [~~"Office" means the Office of Vocational Rehabilitation and its staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.~~]
[~~(5)~~] [~~"Relative" means an individual related to another individual by lineage, marriage, or adoption and includes a:~~]
[~~(a)~~] [~~Spouse;~~]
[~~(b)~~] [~~Parent;~~]
[~~(c)~~] [~~Grandparent;~~]
[~~(d)~~] [~~Brother;~~]
[~~(e)~~] [~~Sister;~~]
[~~(f)~~] [~~Son;~~]
[~~(g)~~] [~~Daughter;~~]
[~~(h)~~] [~~Grandchild;~~]
[~~(i)~~] [~~Aunt;~~]
[~~(j)~~] [~~Uncle;~~]
[~~(k)~~] [~~Niece;~~]
[~~(l)~~] [~~Nephew; and~~]
[~~(m)~~] [~~First cousin.~~]

Section 2. Eligibility.
(1) In accordance with 34 C.F.R. 361.42, an individual shall be eligible for vocational rehabilitation services if the office determines that:
(a) The individual has a physical or mental impairment that constitutes or results in a substantial impediment to employment;
(b) The individual requires rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;
(c) The individual can benefit in terms of an employment outcome; and
(d) The individual intends to achieve an employment outcome.

(2) An individual who meets the criteria in subsection (1)(a)-(c) of this Section and who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act shall be presumed eligible for vocational rehabilitation services and considered an individual with a significant disability, so long as the individual intends to achieve an employment outcome. This presumption of eligibility may be overcome only if the individual participates in a period of trial work, as provided in Section 3 of this administrative regulation, and upon clear and convincing evidence that the individual cannot benefit from vocational rehabilitation services in terms of an employment outcome. Because eligibility can generally be determined based solely on verification of benefits, the office shall determine eligibility as soon as practicable upon receipt of verification of benefits.

(3) Eligibility requirements shall be applied by the office without regard to race, color, national origin, sex, age, religion, type of disability, genetic information, marital status, sexual orientation, gender identity, citizenship, pregnancy, or veteran status.

(4) The individual shall meet legal age requirements for employment at the time rehabilitation services are provided. There shall be no maximum age at which an individual is ineligible for services.

(5) There shall be no residency requirements for eligibility purposes. However, the individual shall be available to participate in rehabilitation services.

(6) Eligibility determinations shall be made within sixty (60) calendar days from the date of application, unless:

(a) There are unforeseen circumstances beyond the control of the office that prevent making the determination within the timeframe; or

(b) The individual and office agree to a one-time extension that reflects the minimum additional time needed to obtain the information necessary to determine eligibility and that specifies a date by which eligibility shall be determined. The sixty (60) day eligibility deadline shall not be extended if presumptive eligibility under subsection (2) of this section has been established.

(7) Any agreement to extend the eligibility determination period shall be documented in the case record.

(8) Services shall be provided only to address the employment needs of individuals with disabilities.

(9) Signing an application for services shall document the individual's intent to achieve an employment outcome.

(10) Limitations in functional capacity must be a direct result of the disability and not the result of attendant factors such as lack of training, labor market conditions, or transportation. Functional capacity includes self-care, work skills, interpersonal skills, communication, mobility, self-direction and work tolerance.

(11) A comprehensive assessment may be needed prior to developing an Individualized Plan for Employment and assigning a priority category.

(12) An individual requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment if the unique skills of a qualified vocational rehabilitation professional are required to assist the individual in achieving an employment outcome.

(13) Individuals are considered underemployed when a disability adversely affects the ability to obtain a position that could reasonably be expected:

(a) Considering education, experience, and capabilities,

(b) Prior to the onset or worsening of a disabling condition, or

(c) Considering current capabilities with or without accommodations.

(14) The eligibility determination shall result in one of the following categories: Eligible and Accepted, Eligible and Out-of-Selection, Ineligible, or Eligibility Unknown.

(15) If the determination is "Eligible and Accepted," the case should progress toward development of an Individualized Plan for Employment in accordance with Section 6 of this administrative regulation.

(16) If the determination is "Eligible and Out-of-Selection," the individual shall be assigned to a priority category and served in accordance with Section 5 of this administrative regulation and 781 KAR 1:030, including placement on any applicable waitlist and provision of information and referral services as required by federal law.

(17) All individuals with disabilities who are assigned to a closed priority category shall be provided information and referral services consistent with 34 C.F.R. 361.36.

(18) If an individual is determined ineligible for services, the individual, and as appropriate, the individual's authorized representative, shall be notified and advised of the reasons for the ineligibility decision and information regarding appeal rights.

(19) If eligibility cannot be determined based on existing information, the eligibility determination shall be classified as "Eligibility Unknown," and the individual shall be afforded an opportunity for trial work in accordance with Section 3 of this administrative regulation.

[~~Section 2.~~] [~~Employees' Request for Services.~~]

[~~(1)~~)] [~~An employee of the office who wishes to request rehabilitation services shall advise the Director of Field Services or a designee.~~]

[~~(2)~~)] [~~The Director of Field Services or a designee and the employee shall select a counselor to take the request for services. If practicable, the counselor shall be located in an adjacent district to the district in which the employee resides.~~]

Section 3. Trial Work.

(1) Trial Work Experience shall be provided when an individual's ability to benefit from vocational rehabilitation services in terms of an employment outcome cannot be determined based on existing information, as required by 34 C.F.R. 361.42(e).

(2) Before the office may determine that an individual is unable to benefit from vocational rehabilitation services due to the severity of disability, the office shall:

(a) Provide Trial Work Experience in realistic work settings, using appropriate supports; and

(b) Base any determination of ineligibility on clear and convincing evidence, consistent with 34 C.F.R. 361.42(e)–(f).

(3) Trial Work Experience shall be provided only when:

(a) The individual has applied for vocational rehabilitation services;

(b) Eligibility cannot be determined without direct observation of the individual's abilities, capabilities, and capacity to perform work; and

(c) The experience is necessary to obtain information required to make an eligibility determination.

(4) Trial Work Experience shall:

(a) Occur in one or more competitive, integrated, or community-based settings that reflect typical workplace demands;

(b) Include reasonable supports such as job coaching, assistive technology, or other services necessary for the individual to participate;

(c) Be individualized and adjusted as needed based on the individual's progress and functional needs; and

(d) Be conducted for a sufficient variety and duration to permit an informed eligibility decision.

(5) The office shall develop, in collaboration with the individual where possible, a written Trial Work Experience Plan that:

(a) Identifies the specific trial work activities, settings, and supports to be provided;

(b) Establishes the expected duration and review intervals;

(c) Identifies providers responsible for delivering supports.

(6) The office shall periodically assess the individual's performance, functional abilities, and support needs during Trial Work Experience with documentation of the individual's progress.

(7) Upon completion of Trial Work Experience, the office shall determine:

(a) The individual is eligible for vocational rehabilitation services because the individual can benefit in terms of an employment outcome; or

(b) The individual is ineligible for vocational rehabilitation services based on clear and convincing evidence obtained from Trial Work Experience.

(8) Limitations.

(a) Trial Work Experience shall not substitute for assessments or services provided under an Individualized Plan for Employment.

(b) Trial Work Experience shall not exceed the time necessary to obtain the information required to make an eligibility determination.

(c) Extended evaluation periods shall not be used in lieu of the requirements of this Section, consistent with 34 C.F.R. 361.42(f).

(9) Comparable services and benefits and financial participation requirements shall not apply to Trial Work Experience services, consistent with 34 C.F.R. 361.53(b)(2)(i), because these services occur prior to eligibility determination.

[~~Section 3.~~] [~~Employees' Relatives' Request for Services.~~]

[~~(1)~~] [~~An employee of the office shall not take a request for services or provide vocational rehabilitation services to a relative.~~]

[~~(2)~~] [~~The relative shall be referred to the Director of Field Services or a designee.~~]

[~~(3)~~] [~~The Director of Field Services or a designee and the individual shall identify a staff member who is not a relative to take the request for services and to provide services as deemed appropriate.~~]

Section 4. Ineligibility.

(1) If any of the eligibility criteria are not met, the individual shall be determined ineligible for vocational rehabilitation services. Before issuing an ineligibility determination, the office shall provide the individual an opportunity for consultation regarding the proposed decision.

(2) If the consultation does not resolve the issue, the individual shall be informed in writing and in an accessible format of the ineligibility decision. This document shall contain the reason for the determination and information regarding the individual's appeal rights.

(3) If the individual is determined ineligible due to a finding that the individual cannot benefit in terms of an employment outcome following a period of trial work, the office shall:

(a) Consult with the individual;

(b) Issue written notice stating the reason for the determination and advising of the right to appeal under 781 KAR 1:010;

(c) Review the ineligibility decision within twelve (12) months of the initial decision; and

(d) Conduct additional reviews thereafter upon the request of the individual. Any review does not limit or replace the individual's right to appeal the ineligibility determination at any time.

(4) If the office determines that the individual is not eligible because the individual is unable to pursue competitive integrated employment or is otherwise unable to participate in such employment due to disability-related limitations, the office shall:

(a) Consult with the individual, consistent with 34 C.F.R. §§ 361.43 and 361.44;

(b) Issue written notice stating the reason for the determination and advising of the right to appeal under 781 KAR 1:010; and

(c) Provide information and referral services to assist the individual in obtaining services from other appropriate agencies.

(5) If an individual affirmatively states that they do not desire to continue pursuing competitive integrated employment at this time and chooses to withdraw from services, the office shall document the individual's voluntary decision and close the case. A voluntary withdrawal by the individual does not constitute an ineligibility determination and does not trigger appeal rights. In addition, the individual may reapply for services at any time.

[~~Section 4.~~] [~~Legal Fees. The office shall not be responsible for any fees incurred by an applicant or eligible individual for legal services.~~]

Section 5. Priority Categories.

(1) An individual determined eligible shall be assigned to one (1) of the following priority categories:

(a) Priority Category 1: Individual with a most significant disability is an individual with a disability who has been determined eligible for vocational rehabilitation services, requires multiple vocational rehabilitation services for a period of six (6) months or more, and experiences serious limitations in four (4) or more areas of functional capacity, in terms of an employment outcome.

(b) Priority Category 2: Individual with a significant disability is an individual with a disability who has been determined eligible for vocational rehabilitation services, requires multiple vocational rehabilitation services for a period of six (6) months or more and experiences serious limitations in three (3) areas of functional capacity, in terms of an employment outcome.

(c) Priority Category 3: Individual with a significant disability is an individual with a disability who has been determined eligible for vocational rehabilitation services, requires multiple vocational rehabilitation services for a period of six (6) months or more, and experiences serious limitations in one (1) to two (2) areas of functional capacity, in terms of employment outcome.

(d) Priority Category 4: Individual with a disability is an individual who has been determined eligible for vocational rehabilitation services and does not meet the criteria for priority categories 1, 2, or 3.

(2) If the assigned priority category is open, the individual shall be served.

(3) As set forth in 781 KAR 1:030, if the priority category is closed, the individual's case shall be held on a waitlist in their assigned priority category by date of application until funding is available to serve from the waitlist or the priority category assigned is opened or the order of selection is lifted.

(4) An individual who has been assigned to a priority category may be reassigned to a different category to correct an error; or if the office determines new information justifies the reclassification.

[~~Section 5.~~] [~~Payment Rates for Purchased Services.~~]

[~~(1)~~] [~~A service vendor shall not charge or accept from the applicant, eligible individual, or a relative payment for services unless the amount of the charge or payment is first presented to the office.~~]

[~~(2)~~] [~~Payment to out-of-state vendors shall be governed by the rates established by the vocational rehabilitation agency in the state where services shall be provided.~~]

Section 6. Individualized Plan for Employment.

(1) The Individualized Plan for Employment (IPE) shall be developed in accordance with the Rehabilitation Act of 1973, as amended, and the Workforce Innovation and Opportunity Act (WIOA), and 34 C.F.R. 361.45, and 361.46.

(2) The IPE, including any amendments, shall be jointly agreed upon by the office and the individual. The IPE shall be executed on office-approved forms.

(3) As required by 34 C.F.R. 361.45(c), a copy of the IPE, and any amendments, shall be provided to the individual in their native language or mode of communication that enables the full participation of the individual.

(4) The IPE implementation date shall be the date the office signs the IPE after all other required signatures have been obtained.

(5) The IPE shall be developed as soon as possible, but not later than ninety (90) days after the date of determination of eligibility, unless the office and individual agree in writing to a one-time extension that specifies a completion date.

(6) The individual may choose to develop all or part of the IPE independently, with the assistance of the office, or with the help of a representative or a disability advocacy organization, consistent with informed choice.

(7) The IPE shall specify:

(a) A specific employment outcome;

(b) The vocational rehabilitation services required to achieve the outcome;

(c) Providers of each service;

(d) Timelines for the initiation of services;

(e) Responsibilities of the individual and the office, including financial participation when applicable;

(f) Comparable services and benefits; and

(g) The need for post-employment services, if any.

(8) A complete copy of the signed IPE and any amendments shall be provided to the individual promptly after execution.

(9) Amendments to the IPE shall:

(a) Be made when any substantive changes in the employment outcome, services, or the provider are necessary; and

(b) Only be made when jointly agreed upon and signed by both the office and individual.

(10) The office may authorize incidental expenditures not exceeding $200 per authorization or five hundred dollars ($500) per fiscal year without obtaining the individual's signature if the expenditure is for maintenance, clothing, uniforms, transportation, licenses or permits, assistive technology devices, and specialized aids or appliances for the blind.

(11) The IPE shall be reviewed with the individual at least annually. The first annual review shall occur on or before the anniversary date of the IPE, and thereafter, on or before the most recent annual review. If a significant change to the rehabilitation program is required, an IPE amendment shall be written.

(12) Prior to developing or amending an IPE, the office shall provide the individual with information necessary for informed choice regarding potential employment outcomes, services, service providers, and methods of procuring services. Alternative methods of service delivery shall be identified unless prohibited by law.

(13) Prior to developing or amending an IPE, individuals shall be given a description of services and providers, allowing individuals to have input into the services and providers selected. Except where otherwise provided by state or federal law or regulation, alternative methods to provide services shall be identified for the individual.

[~~Section 6.~~] [~~Potentially Terminal Illness. Services shall not be provided to individuals with a potentially terminal illness unless:~~]

[~~(1)~~)] [~~There is a favorable medical prognosis for recovery; or~~]

[~~(2)~~)] [~~There is a prospect of survival for a reasonable period of time, allowing a return to work for at least twelve (12) months (work life expectancy).~~]

[~~(a)~~)] [~~If surgery, chemotherapy, nuclear medical treatment, or similar ancillary medical service is expected to cure the condition, it may be provided as with another medical problem.~~]

[~~(b)~~)] [~~If the attending physician feels the prognosis is guarded, the office shall request a letter indicating the individual's work life expectancy. For those individuals with a twelve (12) month work life expectancy services may be considered.~~]

[~~Section 7.~~] [~~Second Opinions.~~]

[~~(1)~~)] [~~The office may seek a second opinion from a qualified practitioner before determining eligibility or before authorizing services if the office has reason to believe that a second opinion would provide more information necessary to determine eligibility.~~]

[~~(2)~~)] [~~If the office determines that eligibility is not met or does not authorize services, an individual may utilize the appeals process established in 782 KAR 1:010.~~]

Section 7.[~~Section 8.~~] Self-employment Enterprises. The requirements established in this section shall be met prior to planning for self-employment for an [~~eligible~~]individual.

(1) An eligible individual shall undergo an assessment to determine work skills interests, interpersonal skills, related functional capacities, and other pertinent characteristics. Self-employment shall be considered only if:

(a) The self-employment venture is expected to be the individual's primary source of employment; and

(b) The anticipated earnings are comparable to the earnings of individuals without disabilities who are self-employed in similar occupations with similar training, experience, and skills.

(2) Prior to approval of a self-employment goal, the office shall:

(a) Assess the individual's work skills interests, interpersonal skills, related functional capacities, and other pertinent characteristics to determine suitability for self-employment; and

(b) Require the individual to participate in prevocational and small business trainingprior to starting a new self-employment business, if necessary to support an informed choice for a self-employment outcome.

[~~(2)~~)] [~~An eligible individual shall participate in prevocational and small business training as established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010.~~]

(3) Prior to provision of services for a new self-employment venture, an[~~An eligible~~] individual shall obtain any required license, permit, certificate, or lease, and be in conformity with all federal and state laws and local ordinances to commence an enterprise. Proof of compliance with this subsection shall be provided upon request.

(4) An [~~eligible~~]individual seeking to develop a self-employment enterprise requiring start up costs of more than $1,000 shall:

(a) Complete a feasibility study of the proposed business; and

(b) Submit a written business plan and have it approved by the office[~~pursuant to the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010, prior to provision of services~~]. The business plan shall address, at a minimum, the nature of the product or service, market and competition, marketing approach, management structure, projected costs, and projected revenues[~~consist of the following:~~]

[~~1.~~] [~~Executive summary;~~]

[~~2.~~] [~~Description of product or service;~~]

[~~3.~~] [~~Assessment of available consumers to be served;~~]

[~~4.~~] [~~Competitors currently in operation in the industry;~~]

[~~5.~~] [~~Marketing plan;~~]

[~~6.~~] [~~Costs of production;~~]

[~~7.~~] [~~Management details and structure; and~~]

[~~8.~~] [~~Detailed financial analysis~~].

(5) The office shall not be the sole source of capitalization for a self-employment enterprise with start up costs of $5,000 or more. The individual shall document other financial resources or in-kind contributions that will be used to support the venture.

[~~(a)~~)] [~~In addition to requirements under subsection (4) of this section, an eligible individual seeking financial assistance with start up costs of $5000 to $10,000 shall contribute fifty (50) percent of the cost in excess of $5,000 either in capital or documented value of existing equipment used in the daily operation of the business and ninety (95) percent of the cost in excess of $10,000.~~]

[~~(b)~~)] [~~An eligible individual shall provide documentation that the assets necessary for the required financial participation are in place prior to provision of services by the office.~~]

(6) In addition to requirements under subsection (5) of this section, an individual seeking financial assistance with start up costs shall contribute:

(a) Fifty (50) percent of the portion of start up costs between five thousand dollars ($5,000) and ten thousand dollars ($10,000); and

(b) Ninety-five (95) percent of that portion of start up costs that exceeds ten thousand dollars ($10,000).[~~The total office expenditures toward the start up costs for a self-employment enterprise shall not exceed $10,000 unless:~~]

[~~(a)~~)] [~~All provisions of subsections (1) through (5) of this section are met; and~~]

[~~(b)~~)]

[~~1.~~] [~~The nature of the individual's vocational rehabilitation needs make it necessary that the service be provided;~~]

[~~2.~~] [~~The denial of the service will prohibit the individual from achieving the vocational goal; or~~]

[~~3.~~] [~~The provision of the service will result in a cost savings to the office.~~]

(7) The individual's contribution may be made in cash or documented value of existing equipment used in the daily operation of the business.

(8) An individual shall provide documentation that the assets necessary for the required financial participation under subsection (6) of this Section are in place prior to provision of services by the office.

(9) The total office expenditures toward the start up costs for a self employment enterprise shall not exceed ten thousand dollars ($10,000).

(10) For an existing business in which the individual has been self-employed for at least one (1) year, the office may provide only those disability-related services or accommodations that are necessary for the individual to maintain competitive integrated employment in that business. The office shall not fund expansion of an existing business beyond disability-related needs.

(11) The office shall not provide start-up funding for self-employment ventures that are speculative in nature, organized as nonprofit entities, or that involve purchase of real estate, franchise

fees, or payment of existing business debt. Additional limitations on the scope of services for self-employment shall comply with federal vocational rehabilitation requirements, including 34 C.F.R. Part 361, and all applicable state laws.

Section 8. Financial Participation.

(1) The Office may require financial participation from individuals for certain vocational rehabilitation services, consistent with 34 C.F.R. 361.53 and 361.54. Financial participation shall be determined through a financial participation assessment that evaluates the individual's adjusted income and applicable comparable services and benefits.

(2) Individuals who have been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act shall be exempt from financial participation; however, comparable services and benefits shall still be applied consistent with 34 C.F.R. 361.53.

(3) Financial participation shall apply only to services subject to an economic need determination under this administrative regulation and 781 KAR 1:040, and shall not apply to services that are exempt under 34 C.F.R. 361.54(b).

(4) A financial participation assessment shall be completed prior to implementation of an IPE and when the IPE is amended to add services subject to financial participation.

(5) The financial participation assessment shall consider:

(a) The individual's adjusted gross income and household size;

(b) The amount by which adjusted income exceeds 250 percent of the federal poverty guideline for the household size; and

(c) Disability-related expenses paid directly by the individual that are necessary for the individual to achieve an employment outcome.

(6) The Office shall determine the individual's required contribution toward the cost of services based on the individual's adjusted excess income and the percentage of participation applicable to that income level. The percentage of participation shall be established by the office and shall be made publicly available. The amount of financial participation shall be reflected in the IPE.

(7) The individual shall be responsible to pay the amount of financial participation agreed to in the IPE. The Office shall not be responsible for any outstanding or unpaid balance for an authorized good or service owed to a vendor resulting from the individual's share of financial participation.

(8) The Office may request updated financial information when there is a reasonable basis to believe that the individual's financial circumstances or household composition has changed in a manner that may alter the amount of financial participation.

(9) An individual who experiences a significant change in financial circumstances may request a review of the financial participation assessment. If a change results in a revised contribution amount, the individualized plan for employment shall be amended accordingly.

Section 9. Confidentiality.

(1) The Office shall maintain the confidentiality of all personal information obtained from an individual. Each individual, or their representative, shall be informed of:

(a) The authority under which information is collected;

(b) The principal purposes for which the information will be used;

(c) Whether providing the requested information is mandatory or voluntary and the effects of not providing the requested information;

(d) The circumstances under which information may be released without informed written consent; and

(e) Identification of the agencies to which information is routinely released.

(2) The office may only communicate with individuals via text/SMS only when the individual has provided consent for that mode of communication and the consent is documented in the case record. If the individual revokes consent, the Office shall cease using that communication method.

(3) Except as provided in subsections (8) through (11) of this Section, personal information shall not be released without the individual's informed written consent, except to:

(a) The individual or their authorized representative; or

(b) A service provider or medical provider for purposes directly related to the individual's vocational rehabilitation services.

(4) Informed written consent is required to release information to any party not otherwise authorized in subsection (3) of this Section, including a parent of an individual who is 18 years of age or older.

(5) Informed written consent shall specify:

(a) The purpose for which the information is released;

(b) The specific information to be released;

(c) The date of expiration of the informed written consent;

(d) An assurance that information will not be re-released to the individual or others; and

(e) The dated signature of the individual or their legal representative.

(6) If personal information has been obtained from another agency or organization, including the individual's medical providers, it may only be released by or under the conditions established by the other agency or organization.

(7) An individual who believes information in their case record is inaccurate or misleading may request that the office amend the information. If the information is not amended, because the office determines the information is accurate, the request for the amendment shall be documented in the case record.

(8) Personal information may be released to other programs or authorities only for its program purposes under the same conditions that govern the release of information to an individual or that individual's representative, but only with the written consent of the individual.

(9) In compliance with 34 C.F.R. 361.38, personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research shall only use de-identified information and shall not contain personal identifiers without the individual's informed written consent and only for purposes directly connected with administration of the vocational rehabilitation program, or for purposes which would significantly improve the quality of life for persons with disabilities and only if the organization, agency, or individual assures that:

(a) Information will be used only for the purposes for which it is being provided;

(b) Information will be released only to persons officially connected with the audit, evaluation, or research;

(c) Information shall not be released to the involved individual;

(d) Information shall be managed in a manner to safeguard confidentiality; and

(e) Final products shall not reveal any personal identifying information without the informed written consent of the involved individual or the individual's representative.

(10) Informed written consent is not required for release of information when the request is:

(a) For purposes directly related to the administration of the vocational rehabilitation program,

(b) Required by Federal or State law;

(c) In response to a court order, warrant, subpoena, or other similar legal requirement; or

(d) In response to investigations in connection with law enforcement, fraud, or abuse (except where expressly prohibited by Federal or State laws or regulations), and in response to an order issued by a judge, magistrate, or other authorized judicial officer.

(11) The Office may release personal information when necessary to protect the individual or others when the individual poses a direct threat to the individual's safety or the safety of others.

Section 10.[~~Section 9.~~] Gender Reassignment. Office funds shall not be used to pay for gender reassignment surgery.

[~~Section 10.~~] [~~Tools and Equipment. The eligible individual shall return tools, equipment, and supplies to the office if no longer used for the employment outcome.~~]

Section 11. Case Closure.

(1) A case shall be closed when no further services from the Office are justified, required, or anticipated in the immediate future.

(2) A case shall be closed as a competitive integrated employment outcome when:

(a) The individual has been determined eligible; and has received an assessment for determining eligibility and vocational rehabilitation needs;

(b) Services have been provided in accordance with the IPE; and

(c) The individual has maintained competitive integrated employment for at least ninety (90) consecutive days or for supported employment cases, 90 days after transition to extended services.

(3) For closures based on achievement of a competitive integrated employment outcome, the Office shall provide written notice of case closure to the individual summarizing the employment outcome and services provided. When a case is closed due to ineligibility, the Office shall provide written notice of the ineligibility determination. Ineligibility may result from:

(a) A determination that the individual does not meet the eligibility criteria in Section 2 of this administrative regulation;

(b) A determination, based on trial work experiences, that the individual is unable to benefit from vocational rehabilitation services in terms of an employment outcome due to the severity of disability; or

(c) A decision by the individual not to pursue competitive integrated employment at this time.

(4) An individual who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act shall not be determined ineligible:

(a) based on inability to benefit unless, after participating in trial work experiences, clear and convincing evidence establishes that the individual cannot benefit from vocational rehabilitation services in terms of an employment outcome; or

(b) Such an individual may be determined ineligible if they choose not to pursue competitive integrated employment.

(5) Before a determination of ineligibility, the Office shall consult with the individual or provide an opportunity for consultation. At the time of determination, referrals should be made to appropriate agencies and facilities.

(6) If an individual is determined ineligible based on a finding that the individual is incapable of benefiting in terms of an employment outcome, the Office shall review that determination within twelve (12) months and thereafter upon the request of the individual or representative. Consultation shall be provided unless the individual cannot be located, refuses services or review, is no longer present in the state, has a rapidly progressive or terminal condition, or is deceased.

(7) If an individual continues to seek competitive integrated employment but declines further services, or chooses not to pursue competitive integrated employment, the case may be closed as ineligible or unsuccessful, as appropriate.

(8) Cases may be closed as unsuccessful if an intervening reason, including but not limited to death, inability to locate the individual, individual institutionalized, transfer to another agency, failure to cooperate, refusal of services, transportation not feasible or available, referral to an independent living program, precludes a determination of eligibility or achievement of an employment outcome.

(9) For cases closed from Applicant status for a reason other than ineligibility, the Office shall document the rationale for closure in the case record.

(10) Prior to case closure, the Office shall provide information and referral services to the individual, as appropriate.

(11) For a student with a disability in potentially eligible status, the record shall be closed as soon as possible when the individual no longer meets the definition of a student with a disability, including when the individual reaches the maximum program age or is no longer enrolled in an education setting.

(12) For a student with a disability in application, accepted or IPE status, the case may be closed when eligibility or an IPE cannot be completed within applicable federal deadlines and reasonable efforts to contact the individual have been unsuccessful. Specific contact and documentation procedures shall be consistent with federal and state vocational rehabilitation requirements.

(13) Cases shall be closed from post-employment when one of the following criteria is met and documented in the case record:

(a) Employment appears secure following the provision of appropriate provision of post-employment services;

(b) A new or substantially revised program of rehabilitation services is required, in which situation, a new case may be opened; or

(c) Services have failed to maintain or return the individual to competitive integrated employment.

[~~Section 11.~~] [~~Training. Postsecondary training shall be provided for an eligible individual pursuant to this section.~~]

[~~(1)~~] [~~Except as provided in subsections (3) and (4) of this section, tuition and initial registration fees provided to the training facility of the eligible individual's choice shall not exceed those of the highest rate charged by a state-supported training facility in Kentucky that offers similar vocational preparation. If there is no similar program in the state, the amount of support shall be determined by the current fee for service memo.~~]

[~~(2)~~] [~~The Director of Field Services or a designee shall make exceptions to the limitations provided by subsection (1) if it is clearly demonstrated that exceptions are necessary to achieve the employment outcome as established in 34 C.F.R. 361.5(b)(16).~~]

[~~(3)~~] [~~The office shall provide tuition and initial registration fees for postsecondary programs for the deaf recognized by the U.S. Congress as national programs due to the provision of essential support services including:~~]

[~~(a)~~] [~~Interpreting services;~~]

[~~(b)~~] [~~Note-taking services; and~~]

[~~(c)~~] [~~Tutoring services.~~]

[~~(4)~~] [~~Other postsecondary programs for the deaf offering interpreting services, note-taking services, and tutoring services shall be used if the total cost of attendance does not exceed the total cost of tuition, fees and interpreting services, note-taking services, and tutoring services at the highest rate charged by a state-supported training facility in Kentucky that offers similar vocational preparation.~~]

[~~(5)~~] [~~Training shall be purchased only from training facilities that are accredited or licensed by accrediting or licensing bodies and that comply with all applicable state and federal requirements.~~]

[~~(6)~~] [~~An eligible individual planning to attend a postsecondary training facility shall apply for all financial assistance available through the training facility.~~]

[~~(7)~~] [~~An eligible post-secondary student shall:~~]

[~~(a)~~] [~~Maintain full-time status as defined by the institution;~~]

[~~(b)~~] [~~Maintain less than full-time status if full-time status is inconsistent with the consumer's unique strengths, abilities, and capabilities; or~~]

[~~(c)~~] [~~Maintain less than full-time status for one (1) semester if those hours are needed to graduate in the current year;~~]

[~~(d)~~] [~~All coursework shall facilitate the achievement of positive outcomes.~~]

[~~(e)~~] [~~By the end of the second term or semester and throughout each subsequent term or semester, the student shall achieve the higher of:~~]

[~~1.~~] [~~An overall "C" grade average; or~~]

[~~2.~~] [~~Standing required for admission, licensure, or certification.~~]

[~~(f)~~] [~~An exception to a requirement established in subsection (1) or (4) of this section shall:~~]

[~~1.~~] [~~Be granted if the student:~~]

[~~a.~~] [~~Has a need or circumstance that renders him unable to meet the requirement; and~~]

[~~b.~~] [~~Notifies the counselor of the need or circumstance prior to a change of standing at the institution.~~]

[~~2.~~] [~~Not be granted for the requirements established in subsection (5) of this section for a period beyond one (1) semester.~~]

[~~(8)~~] [~~The student shall provide the counselor with a copy of course grades as soon as possible after the end of each term or semester.~~]

[~~(9)~~] [~~If the student does not maintain the standards of this section, the counselor shall:~~]

[~~(a)~~] [~~Terminate service at the institution of higher education; and~~]

[(b)] [Simultaneously notify the student of the appeal procedure established in KRS 138.170.]

[(10)] [A service terminated under subsection (12) of this section shall be reinstituted if the student:]

[(a)] [Successfully appeals the counselors decision, in accordance with KRS 138.170; or]

[(b)] [Subsequently meets the standard under which the service was terminated.]

Section 12. Other.

(1) Gender Reassignment. Office funds shall not be used to pay for gender reassignment surgery.

(2) Mandatory reporting. Office staff, upon request of a victim of any act of domestic violence and abuse or dating violence and abuse, shall personally report the alleged abuse to a law enforcement officer after discussing the report with the victim.

(3) Individuals shall be informed that the Client Assistance Program (CAP) at Kentucky Protection and Advocacy is available to assist them in their relationship with OVR.

(4) Electronic signatures are allowed.

(5) Legal Fees. The Office shall not be responsible for any fees incurred by an individual for legal services, except as required by federal law. Nothing in this section prohibits the office from providing benefits counseling, advocacy training, or other vocational rehabilitation services permitted under 34 C.F.R. § 361.48, so long as those services do not include the payment of private legal fees.

[Section 12.] [Computer Hardware and Software Purchases.]

[(1)] [Except as provided in subsection (2) of this section or in Section 13 of this administrative regulation, the office shall not purchase a computer, microcomputer, or other hardware or software for the personal use of an applicant or eligible individual.]

[(2)] [The office shall consider the provision or upgrade or replacement of computer hardware and software if the equipment is:]

[(a)]

[1.] [Essential to compensate for the limitations caused by the disability; or]

[2.] [Required for the eligible individual to achieve or maintain a vocational objective of competitive integrated employment; and]

[(b)] [One (1) of the following criteria are met:]

[1.] [The equipment is required for vocational preparation;]

[2.] [The equipment is required to perform the job and no provision is made by the employer to supply the equipment; or]

[3.] [The equipment enables an eligible individual to become competitive in an integrated setting with nondisabled employees performing the same duties.]

Section 13. Service Fees.

(1) The office shall establish service fees in compliance with applicable state and federal procurement laws.

(2) The office may utilize multiple methods to establish service fees, including:

(a) Fixed predetermined rates;

(b) Fair market rates; and

(c) Value-based purchasing or a performance-based or milestone payment.

(3) OVR may procure a third party to conduct a rate study.

(4) The following factors shall be considered when establishing a service fee:

(a) Historical price of the good or service;

(b) The rate of inflation since last service fee change;

(c) Analysis of personnel costs to determine whether the service can be performed more economically by direct employment of office staff rather than utilizing a vendor;

(d) The professional qualifications required to render the service;

(e) Budgetary analysis to determine the impact on the federal award to ensure the office does not over obligate funds;

(f) A survey of multiple neighboring states;

(g) A survey of factors that may be unique to a geographic region such as availability of a service and transportation costs;

(h) A survey of other Kentucky agencies that provide the same service;

(i) A survey of community rehabilitation programs and other providers; and

(j) Cost analysis of the individual elements of the price.

(5) The office shall permit exceptions to the published service fee as necessary to ensure the individual receives approved services. A rate differential may be applied when the office determines a high level of provider effort or higher intensity for the service is required to meet the unique needs of the individual.

(6) The office shall maintain all documentation used to determine a service fee.

(7) The office shall revise service fee procedures and standards prior to the start of the fiscal year in which the revision will become effective.

(8) The executive director shall have final approval authority for all service fees and service fee memorandums.

(9) The office shall review service fees, service fee memoranda, and related rate schedules at least every other year and shall issue revised service fees or fee memoranda as necessary. Updated service fee schedules and memoranda shall be made publicly available.

[Section 13.] [Medical Treatment. A medical treatment or procedure that is experimental or that does not have a consistent record of significant improvement in vocational functioning in better than fifty (50) percent of the subjects shall not be provided by the office.]

Section 14. Exceptions.

(1) The Office may approve an exception to a requirement, condition, or limitation in this administrative regulation when permitted under federal law, including 34 C.F.R. 361.50(d), and when necessary to ensure that services are provided consistent with individualized assessments, informed choice, and the individual's vocational rehabilitation needs.

(2) Any exception granted under this Section shall be consistent with state and federal vocational rehabilitation requirements, including 34 C.F.R. Part 361 and 2 C.F.R. Part 200, and shall support the achievement of the individual's employment outcome.

[Section 14.] [Vehicle Purchase. The office shall not purchase a vehicle unless the occupation of the eligible individual requires a vehicle as occupational equipment.]

Section 15. Incorporation by Reference.

(1) "OVR-2", November 20, 2025, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Vocational Rehabilitation, 500 Mero Street 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available at kcc.ky.gov/vocational-rehabilitation.

VICKIE WISE, Deputy Secretary

APPROVED BY AGENCY: December 30, 2025

FILED WITH LRC: December 31, 2025 at 12:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 24, 2026 at 11:00 am, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, KY 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brooke McDaniel
Subject Headings: Disability and Disabilities, Workforce Development, Education
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation outlines the requirements for the determination of eligibility for the receipt of goods and services from the Office of Vocational Rehabilitation (OVR) in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq.
(b) The necessity of this administrative regulation: KRS 151B.195 requires OVR to promulgate administrative regulations outlining the administration of vocational rehabilitation services in Kentucky in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation governs the eligibility determination process and the assignment of a priority category for the Order of Selection.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists individuals seeking services from OVR in understanding the application and eligibility determination process.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The proposed amendments are made to comply with federal requirements regarding the Order of Selection categories and the changes made to KRS 151B.195 by SB 103 RS 25 for establishing service fees and a preference for in state services.
(b) The necessity of the amendment to this administrative regulation: Changes to the regulation are necessary to comply with amendments made to KRS 151B.195 in SB 103 RS 25 and federal requirements regarding the Order of Selection categories.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by outlining the specific requirements for eligibility and financial participation determinations and the assignment of priority categories for the Order of Selection.
(d) How the amendment will assist in the effective administration of the statutes: This amendment makes the eligibility determination, financial participation, and assignment of priority categories process more clear to the regulated individuals.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, this proposed amendment implements Senate Bill 103 RS25.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no new costs to any person or entity.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated individuals will have a better understanding of how eligibility and financial participation determinations are made and how individuals are assigned to priority categories.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No additional costs are expected.
(b) On a continuing basis: No additional costs are expected.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds received by the Office of Vocational Rehabilitation and the required state match funds; however, there are no additional costs as a result of this proposed amendment.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this amendment to the existing administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all affected entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: 29 U.S.C. § 721-723; 34 C.F.R. Part 361; KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This act is authorized by KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a): Not applicable.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(Amendment)

781 KAR 1:030. Order of selection[~~and economic need test for vocational rehabilitation services~~].

RELATES TO: KRS 151B.190, 34 C.F.R. 361.36, 361.53, 361.54, 29 U.S.C. 721(a)(5), (15), (21)(A)
STATUTORY AUTHORITY: KRS 151B.185(2), (3), 151B.195(1), 29 U.S.C. 709(c), 34 C.F.R. 361.36, 361.54
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency. 34 C.F.R. 361.36(c) requires the office to determine, prior to the beginning of each fiscal year, whether to establish and implement an order of selection for state vocational rehabilitation services. 34 C.F.R. 361.36(d) requires federal guidelines for the imposition of an order of selection. [~~34 C.F.R. 361.54(b) authorizes the office to consider an individual's financial need for vocational rehabilitation services.~~] This administrative regulation establishes when an order of selection[~~and an economic need test~~] shall be applied to the provision of vocational rehabilitation services in order to distribute limited funds more equitably over the entire population of otherwise eligible individuals.

Section 1. [~~Definitions.~~]
[~~(1)~~] [~~"Eligible individual" means an individual who has been determined by the office to meet the basic conditions of eligibility for vocational rehabilitation services.~~]
[~~(2)~~] [~~"Executive director" means Executive Director of the Office of Vocational Rehabilitation.~~]
[~~(3)~~] [~~"Individual with a most significant disability" means an individual who has a disability that limits two (2) or more areas of functional capacity.~~]
[~~(4)~~] [~~"Functional capacity" means the capacity to perform tasks required in employment including:~~]
[~~(a)~~] [~~Mobility;~~]
[~~(b)~~] [~~Communication;~~]
[~~(c)~~] [~~Self-care;~~]
[~~(d)~~] [~~Self-direction;~~]
[~~(e)~~] [~~Interpersonal skills;~~]
[~~(f)~~] [~~Work tolerance; or~~]
[~~(g)~~] [~~Work skills.~~]
[~~(5)~~] [~~"Office" means the Office of Vocational Rehabilitation, and its appropriate staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.~~]
[~~(6)~~] [~~"Non-significant disability" means a disability that does not limit a functional capacity.~~]

[~~Section 2.~~] [~~Economic Need.~~]
[~~(1)~~] [~~Economic need shall be considered in determining whether to grant vocational rehabilitation services.~~]
[~~(2)~~] [~~The executive director shall exempt services from the economic needs test if the office is able to provide services to all eligible individuals with significant disabilities pursuant to Section 3 of this administrative regulation, with consideration of applicable comparable benefits as provided in 34 C.F.R. 361.53.~~]
[~~(3)~~] [~~An economic needs test as established in subsection (5) of this section shall be applied as a condition for furnishing the following vocational rehabilitation services:~~]
[~~(a)~~] [~~Physical and mental restoration services;~~]
[~~(b)~~] [~~Tuition and registration fees for vocational or college training;~~]
[~~(c)~~] [~~Maintenance other than diagnostic;~~]
[~~(d)~~] [~~Transportation other than diagnostic;~~]
[~~(e)~~] [~~Services, other than diagnostic, to members of an individual's family necessary to the adjustment or rehabilitation of the individual with a disability;~~]
[~~(f)~~] [~~Occupational licenses, tools, equipment, or initial stock (including livestock) or supplies;~~]
[~~(g)~~] [~~Postemployment services except as provided in subsection (4)(a)-(m) of this section;~~]
[~~(h)~~] [~~Other goods and services which can reasonably be expected to benefit an eligible individual in terms of employment outcomes;~~]
[~~(i)~~] [~~Initial vehicle and property modifications in excess of $10,000;~~]
[~~(j)~~] [~~Second or subsequent vehicle modifications regardless of cost;~~]
[~~(k)~~] [~~Vehicle modification repair or upgrades; or~~]
[~~(l)~~] [~~Hearing aid in excess of $1,000.~~]
[~~(4)~~] [~~The following services shall be excluded from an economic needs test:~~]
[~~(a)~~] [~~Assessment for determining eligibility and vocational rehabilitation needs;~~]
[~~(b)~~] [~~Counseling and guidance;~~]
[~~(c)~~] [~~Placement;~~]
[~~(d)~~] [~~Services provided by staff at state-owned and operated rehabilitation facilities;~~]
[~~(e)~~] [~~Rehabilitation technology except as specifically provided in subsection (3) of this section;~~]
[~~(f)~~] [~~Communication assistance in the individual's native language;~~]
[~~(g)~~] [~~Books, supplies, tools, or equipment for vocational or other training;~~]
[~~(h)~~] [~~Supported employment;~~]
[~~(i)~~] [~~Interpreter services for the deaf;~~]
[~~(j)~~] [~~Reader services for the blind;~~]
[~~(k)~~] [~~Personal assistance services;~~]
[~~(l)~~] [~~Tutors, note takers, or assistive technology education aids; or~~]
[~~(m)~~] [~~Other training, including driver training, on-the-job training, job coaching, job development, or job training.~~]
[~~(5)~~] [~~The office's economic needs test shall be based on the most current Kentucky Median Adjusted Gross Income developed by the U.S. Department of Commerce. If the individual has a monthly income that exceeds 100 percent of the most current median gross income, the individual shall apply the excess income to rehabilitation services necessary to achieve the employment goal except as provided for in 34 C.F.R. 361.54.~~]

[~~Section 3.~~] Order of Selection.
(1) If the executive director determines that the office's projected fiscal or personnel resources are insufficient[~~shall be unable~~] to provide the full range of services as required by the Rehabilitation Act of 1973, as amended, to all eligible individuals[~~applicants~~], the office shall inform the Statewide Council and implement the order of selection on a state-wide basis in compliance with 34 C.F.R. 366.36.

(2)[(1)] An eligible individual previously declared eligible for and receiving vocational rehabilitation services under an individualized plan for employment shall not be affected if the office implements an order of selection.

[(2)] [The order of selection shall not regulate the provision of information or referral services.]

(3) On implementation of the order of selection, the office shall continue to accept referrals of and applications from individuals with disabilities and continue determining eligibility for services.

(4) The order of selection shall not impact[regulate] the provision of information, referral services, or authorization of assessment for determining eligibility.

(5) [An applicant shall be declared eligible or ineligible as appropriate.]

[(6)]

[(a)] [An eligible individual entering accepted status after implementation of the order of selection shall be assigned to a priority category.]

[(b)] [If the priority category is open, the individual shall be served.]

[(c)] [If the priority category is closed, the individual's case shall be held on a waitlist in accepted status until the priority category assigned is opened or the order of selection is lifted.]

[(7)] [The order of selection shall permit immediate reclassification into a higher priority category if circumstances justify the reclassification.]

[(8)] If the office is unable to provide services to all eligible individuals[with significant disabilities], the office shall first serve [eligible]individuals with the[a] most significant disability in the highest open priority category. Within each priority category, individuals shall be served in order of application date[first and then serve eligible individuals with a significant disability on a first-applied, first-served basis, as established by the date of application within a category. If funds become available, the executive director and Statewide Council for Vocational Rehabilitation shall adjust the priority categories to be served as appropriate to provide services to as many consumers as funds allow].

(6)[(9)] The order of selection established in this section shall be followed with the categories to be served designated at the time of implementation.

(7) The executive director may serve individuals from the waitlist, open, or close one or more priority categories as appropriate, to provide services to as many individuals as funds allow.

[(10)] [The order of selection shall have priority categories as follows:]

[(a)] [Priority Category I - eligible individuals with a most significant disability that limits three (3) or more functional capacities;]

[(b)] [Priority Category II - eligible individuals with a most significant disability that limits two (2) functional capacities;]

[(c)] [Priority Category III - eligible individuals with a significant disability that limits (1) one functional capacity;]

[(d)] [Priority Category IV - Eligible individuals with a non-significant disability-.]

VICKIE WISE, Deputy Secretary

APPROVED BY AGENCY: December 30, 2025

FILED WITH LRC: December 31, 2025 at 12:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 24, 2026 at 11:00 am, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, KY 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brooke McDaniel
Subject Headings: Disability and Disabilities, Workforce Development, Education
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation outlines the requirements for the determination of eligibility for the receipt of goods and services from the Office of Vocational Rehabilitation (OVR) in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq., specifically the order of selection regarding priority categories.
(b) The necessity of this administrative regulation: This administrative regulation is required to implement order of selection as required by 29 U.S.C. 721(a)(5), 34 C.F.R. § 361.36.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation ensures order of selection is compliant with 29 U.S.C. 721(a)(5) and 34 C.F.R. § 361.36.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation outlines the requirements for the implementation of order of selection as mandated by 29 U.S.C. 721(a)(5) and 34 C.F.R. § 361.36.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The proposed amendment changes the definitions for the priority categories to bring them into compliance with federal law, specifically 29 U.S.C. 721(a)(5) and 34 C.F.R. § 361.36.
(b) The necessity of the amendment to this administrative regulation: Changes to the regulations are required to ensure compliance with 29 U.S.C. 721(a)(5) and 34 C.F.R. § 361.36.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment brings Kentucky's priority categories into compliance with federal law.
(d) How the amendment will assist in the effective administration of the statutes: This amendment is required to ensure Kentucky's priority categories are compliant with federal law.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: This administrative regulation does not require action by any entity or individual. It merely sets forth the guidelines for implementation of order of selection.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There is no cost.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): This administrative regulation does not grant benefits; it establishes the requirements for implementation of order of selection.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No additional costs.
(b) On a continuing basis: No additional costs.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds and state match funds received by the Office of Vocational Rehabilitation.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new,

or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this proposed amendment.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all affected individuals.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 13B.170, 151B.017, 151B.185, 151B.190, 151B.195, 151B.200; 29 U.S.C. 721(a)(5); 34 C.F.R. 361.36.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 13B.170, 151B..017, 151B.185, 151B.190, 151B.195, 151B.200.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a): Not applicable.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(Amendment)

781 KAR 1:040. Provision ofVocational Rehabilitation Services[~~Assistive technology services~~].

RELATES TO: KRS 151B.190, 29 U.S.C. 705(30), 723, 34 C.F.R. 361.5(c)(9), 361.42, 361.45, 361.46, 361.48, 361.50, 361.53, 361.54
STATUTORY AUTHORITY: KRS 151B.185, 151B.195
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195 requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency. This administrative regulation establishes the requirements for the provision of vocational rehabilitation services, including assistive technology and other goods and services necessary for individuals with disabilities to prepare for, secure, retain, advance in, or regain competitive integrated employment[~~in order to distribute limited funds more equitably over the entire population of otherwise eligible individuals~~].

Section 1. General Provisions.[~~Definitions.~~]
(1) Services under this administrative regulation shall be provided to individuals for diagnostic and assessment services necessary to determine eligibility or priority for services, and to enable an individual to prepare for, secure, retain, advance in, or regain competitive integrated employment as permitted by 34 C.F.R. 361.42.
(2) Comparable services and benefits, including private insurance, Medicaid, Medicare, and other third-party payers, shall be used to the maximum extent allowable prior to the expenditure of office funds, unless the service is exempt under federal regulations or unless the use of the comparable service or benefit would result in unreasonable delay in the progress of the individual, consistent with 34 C.F.R. 361.53.
(3) Financial participation requirements shall apply in accordance with 781 KAR 1:020 when permitted under federal law.
(4) All services shall be provided consistent with the individual's informed choice and shall be aligned with the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests as required under 34 C.F.R. 361.46 and 361.52. Informed choice does not obligate the office to provide higher-cost or non-essential services, equipment, or options when a less costly alternative meets the disability-related vocational rehabilitation needs.
(5) All goods and services shall be purchased in accordance with the Kentucky Model Procurement Code and federal procurement standards.
(6) The office shall not purchase general household or personal items not directly related to disability-related vocational need unless the item is necessary for the individual to participate in a vocational rehabilitation service or to achieve an employment outcome.
(7) The office shall not impose fixed or arbitrary limits on the cost, type, or duration of services and shall allow for individualized exceptions consistent with 781 KAR 1:020.
(8) Service fees, rate schedules, and maximum allowable costs for services shall comply with 781 KAR 1:020.
(9) The office shall comply with applicable cost principles set forth in 2 C.F.R. Part 200 when making expenditures.

(10) Direct payments to individuals.

(a) The office may issue a direct payment to an individual when necessary for the individual to obtain, maintain, or advance in employment or to participate in a vocational rehabilitation service under an IPE, and when no qualified vendor is reasonable available to provide or accept payment for the service.

(b) For purposes of this processing a direct payment under subsection (a), an individual may be required to register as a vendor solely to facilitate payment. Vendor registration under this subsection shall not classify the individual as a commercial vendor or service provider for any other purpose.

(c) Nothing in this subsection shall exempt the office from complying with state and federal procurement requirements.

[(1)] ["Assistive technology specialist" means an individual who analyzes the needs of individuals with disabilities, assists in the selection of the appropriate assistive technology, and trains the eligible individual on how to properly use the specific equipment.]

[(2)] ["Certified driver rehabilitation specialist" means a driver rehabilitation specialist who has obtained certification to provide services from the Association for Driver Rehabilitation Specialists.]

[(3)] ["Driver evaluation" means a clinical and behind-the-wheel evaluation by a certified driver rehabilitation specialist to identify an eligible individual's driver rehabilitation needs to allow that person to drive independently.]

[(4)] ["Driver rehabilitation specialist" means an individual who plans, develops, coordinates, and implements driver rehabilitation services for individuals with disabilities.]

[(5)] ["Driver training" means behind-the-wheel instruction required to teach an individual with a disability to drive with or without vehicle modifications.]

[(6)] ["Eligible individual" means an individual who has been determined by the office to meet the basic conditions of eligibility for vocational assistive services as defined in 34 C.F.R. 361.42.]

[(7)] ["Extended driver evaluation" means additional evaluation necessary in those cases in which an individual's ability to drive cannot be determined after a driver evaluation.]

[(8)] ["Family" means spouse, children, parents, grandparents, or siblings.]

[(9)] ["Individualized plan for employment" means a written plan for a specific employment outcome as required by 34 C.F.R. 361.46.]

[(10)] ["Office" means the Office of Vocational Rehabilitation and its staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.]

[(11)] ["Structural addition" means any improvement to real property that would increase the square footage or footprint of the property.]

Section 2. Specialized Eligibility and Assessment Requirements.

(1) Terminal Illness Affecting Ability to Benefit.

(a) For individuals with medical conditions that may be terminal, eligibility and service decisions shall be based on documented functional limitations and the individual's ability to benefit from vocational rehabilitation services in terms of achieving an employment outcome, consistent with 34 C.F.R. 361.42.

(b) The office may provide services when the individual's prognosis supports a reasonable expectation of achieving or maintaining competitive integrated employment for a sufficient period to prepare for, obtain, maintain, or advance from services.

(c) When the attending physician identifies a guarded prognosis, the office may require documentation regarding anticipated work capacity or work life expectancy to support eligibility or service decisions.

(d) When documentation indicates that the individual is unlikely to benefit from services due to imminent medical decline, the counselor shall consult with the Branch Manager prior to an eligibility determination or denial of services.

(2) Visual Impairments.

(a) Verification of a visual impairment shall be based on medical documentation from an ophthalmologist or optometrist that identifies the nature and extent of the visual condition and any resulting functional limitations relevant to vocational rehabilitation.

(b) When medical information is outdated or insufficient for eligibility or service planning, the office may require a current visual examination.

(c) When visual impairment co-occurs with hearing loss or when dual sensory loss is suspected, referral for audiological evaluation may be required to determine functional limitations and service needs.

(d) Individuals determined eligible for Social Security benefits based on statutory blindness shall be presumed eligible for vocational rehabilitation services consistent with 34 C.F.R. 361.42(a)(3).

(3) Rapidly Progressive Visual Conditions.

(a) A rapidly progressive visual disorder may be determined to constitute a disability prior to the onset of functional limitations when supported by medical documentation indicating that the condition:

1. Is progressive in nature;

2. Requires timely intervention; and

3. Is expected, if untreated, to result in functional limitations affecting employment.

(b) Eligibility and service planning for individuals with progressive visual conditions shall be based on documented functional limitations, anticipated vocational impact, and the individual's informed choice.

Section 3. Assistive Technology Services.

(1) Assistive technology services may be provided at any stage of the rehabilitation process when necessary to address disability-related functional limitations and enable participation in vocational rehabilitation services or achievement of the employment outcome identified in the individualized plan for employment (IPE).

(2) Assessment and Recommendation.

(a) Prior to authorization and purchase of any assistive technology device, an assessment shall be completed by the office.

(b) Recommendations shall identify the most cost-effective device or service necessary to meet disability-related vocational needs and shall be documented in the case record.

(3) Assistive technology may be purchased consistent with federal and state procurement requirements and any applicable fee schedules established under 781 KAR 1:020.

(4) Ownership and Recovery.

(a) Assistive technology that is recoverable shall remain the property of the office until reassigned or disposed.

(b) Non-recoverable assistive technology shall become the property of the individual upon delivery and is not subject to recovery. Ownership status shall be communicated to the individual in writing at the time of delivery.

Section 4. Hearing Assistive Technology.

(1) Hearing aids and assistive listening or alerting devices shall be considered assistive technology devices for purposes of this administrative regulation.

(2) Prior to purchase authorization, an audiological evaluation and hearing assistive technology assessment shall be completed by a licensed audiologist or other qualified professional communication specialist consistent with current professional standards.

(3) Recommendations for hearing aids or related technology shall identify the device type and features required to address vocationally relevant communication needs and shall be consistent with the most cost-effective device that meets those needs.

(4) Cochlear implants (CI) and bone-anchored hearing systems (BAHS) shall be considered medical restoration services subject to the requirements of Section 7 of this administrative regulation.

Section 5. Services for Individuals Who Are Deaf, Hard of Hearing, or Deafblind.

(1) For individuals who are deaf, hard of hearing, or late-deafened, the office shall obtain:

(a) A comprehensive audiological evaluation; and

(b) A communication assessment addressing functional communication needs relevant to home, training, community, and employment settings.

(2) When an individual has a diagnosis or indication of dual sensory loss, the office shall obtain a visual examination by a licensed optometrist or a physician skilled in diseases of the eye.

(3) When visual pathology or restricted visual fields are identified, referral to an ophthalmologist shall be made.

(4) Hearing Assistive Technology and Medical Referral.

(a) Hearing aids and other assistive listening devices shall be authorized in accordance with Section 4 of this administrative regulation.

(b) A recommendation for hearing aids shall be made by a qualified audiologist or other licensed professional authorized under state law to perform hearing aid evaluations.

(c) Individuals presenting symptoms of ear pathology or conductive hearing loss shall be referred to a physician skilled in diseases of the ear.

(5) Coordination of Services.

(a) Interpreter and communication access services shall be provided in accordance with Section 14 of this administrative regulation.

(b) Assistive technology, rehabilitation technology, or environmental communication supports shall be considered when required to enable the individual to participate in assessments, training, or employment.

(c) The office shall collaborate with educational programs, community agencies, and employers to identify appropriate communication supports needed for participation in vocational rehabilitation services or for successful performance of job functions.

Section 6. Wheelchairs and Mobility Devices.

(1) Wheelchairs, scooters, seating systems, and other wheeled mobility devices may be provided as assistive technology services when necessary for an individual to participate in vocational rehabilitation services or to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Wheelchair services may be provided only to individuals who:

(a) Have been accepted for services by the office in accordance with 781 KAR 1:020;

(b) the need for wheeled mobility is identified on the IPE; and

(c) wheeled mobility is necessary for the individual to access home, community, training, transportation, or work settings related to the employment outcome.

(3) An assistive technology specialist employed or contracted by the office shall participate in all wheelchair and mobility device assessments, recommendations, and purchasing decisions authorized under this Section.

(4) Wheelchair and mobility device services shall be based on an assessment conducted by an assistive technology specialist or other qualified provider that considers:

(a) The individual's functional limitations and seating and positioning needs;

(b) The tasks the individual must perform in home, training, community, and employment settings; and

(c) The environments in which the wheelchair will be used, including access to and within the home, workplace, and vehicle.

(5) When a wheelchair or mobility device will be used in conjunction with adapted transportation or a vehicle modification, the Driver Rehabilitation Technology Program shall be consulted prior to authorization. The office shall not authorize a device that is incompatible with the individual's current or planned transportation unless an alternative transportation plan is approved.

(6) The office may authorize wheelchair components, seating systems, accessories, or features not covered by comparable services and benefits when documented by the assistive technology specialist as necessary to meet disability-related vocational needs.

(7) The office shall not reimburse for any wheelchair, mobility device, or related component purchased or delivered prior to authorization unless approved through the exception process described in 781 KAR 1:020.

(8) Ownership and recovery of wheelchair equipment shall be governed by Section 3(4) of this administrative regulation.

(9) The office may consider typical life expectancies of wheelchair bases and components when determining eligibility for replacement, however, replacement decisions shall be based on vocational necessity, documentation of the equipment's condition, and the individual's functional or medical status. Typical life expectancies shall not serve as hard caps; individual need governs.

(10) The individual shall be responsible for routine maintenance, upkeep, and replacement of consumable items, including but not limited to tires, batteries, cushions, and brakes, unless an exception is approved in accordance with 781 KAR 1:020.

(11) The office may authorize repairs when necessary for the individual to participate in vocational rehabilitation services or to maintain competitive integrated employment.

(12) The office shall not authorize repairs necessitated primarily by misuse, abuse, neglect, or lack of reasonable maintenance unless approved through the exception process in 781 KAR 1:020.

Section 7. Physical and Mental Restoration Services.

(1) Physical and mental restoration services may be provided when necessary to correct, substantially modify, or stabilize a physical or mental condition that constitutes a substantial impediment to employment, and when required for the individual to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Allowable physical and mental restoration services may include diagnostic and treatment services, prosthetic and orthotic devices, medication management, mental health services, and other restoration services permitted under 34 C.F.R. 361.5, when vocationally necessary.

(3) Physical and mental restoration services shall be authorized only when:

(a) The condition is stable, slowly progressive, or expected to improve with treatment in a manner relevant to the employment outcome;

(b) Services are prescribed, provided, and supervised by licensed or otherwise qualified medical or mental health professionals; and

(c) The service is documented as vocationally necessary for the specific employment outcome identified in the IPE.

(4) Limitations. The office shall not authorize:

(a) Elective or cosmetic medical or surgical procedures, unless medical documentation demonstrates the procedure is necessary for the individual to achieve or maintain the employment outcome;

(b) Medical or surgical procedures, implants, transplants, or devices that are not approved by the United States Food and Drug Administration (FDA) for the intended use; or

(c) Procedures, equipment, or treatments that lack evidence of effectiveness in improving functional capacities related to the individual's vocational needs.

(5) Out-of-State Services.

(a) Out-of-state physical or mental restoration services may be authorized only when:

1. The provider is in a geographic area that is routinely used and reasonably accessible for the individual;

2. The out-of-state service is more economical to the office; or

3. The procedure, mode of treatment, or qualified provider is not reasonably available in the Commonwealth.

(b) The maximum amount authorized for out-of-state services shall be governed by the rates established by the vocational rehabilitation program in the state where the services are provided, unless approved under the exception process in 781 KAR 1:020.

Section 8. Chiropractic Services.

(1) Chiropractic services may be provided when necessary to address a neuromusculoskeletal condition that constitutes a substantial impediment to employment and when treatment is expected to improve functional limitations that are vocationally relevant.

(a) Chiropractic services shall be time-limited and oriented toward achieving specific, vocationally relevant functional goals.

(b) Long-term maintenance, wellness, or preventive care that is not directly necessary for the employment outcome shall not be funded.

(2) Chiropractic services may be authorized only when:

(a) The need is identified in medical or chiropractic documentation and linked to the IPE; and

(b) The provider is licensed in the jurisdiction where services are delivered.

Section 9. Convalescent Care.

(1) Convalescent care may be provided as a physical restoration service when medically necessary to support short-term recovery following surgery, illness, or treatment, and when required for the individual to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Conditions for Provision. Convalescent care may be authorized only when:

(a) Recommended by the attending physician;

(b) Provided in a facility appropriately licensed in the jurisdiction; and

(c) The service is time-limited and necessary for recuperation directly related to achieving the employment outcome identified in the IPE.

(3) Convalescent care may be approved when one (1) or more of the following conditions are documented:

(a) The individual's home environment is not conducive to safe or adequate recuperation; or

(b) Use of a convalescent facility will reduce the cost of hospitalization, private duty care, or alternative forms of recovery support.

(4) Limitations.

(a) Convalescent care shall be short-term and shall not be authorized as long-term custodial care or maintenance care.

(b) Convalescent care shall not be authorized for conditions unrelated to the individual's disability-related vocational rehabilitation needs.

(c) The level of care shall not exceed that which is medically necessary for recuperation and return to vocational rehabilitation services or employment.

Section 10. Mental Restoration.

(1) Mental restoration services may be provided when necessary to correct, improve, or stabilize a mental or behavioral health condition that constitutes a substantial impediment to employment and when required for the individual to prepare for, obtain, maintain, or advance in competitive integrated employment or to participate in vocational rehabilitation services.

(2) Mental restoration services may be authorized only when:

(a) The services are directly related to the disability and vocational rehabilitation needs identified in the IPE or trial work plan;

(b) Services are prescribed, recommended, or supported by a qualified mental health professional; and

(c) The service provider meets the credentialing requirements established in subsection (5) of this Section.

(3) Mental restoration services shall be time-limited and oriented toward enabling the individual to participate in vocational rehabilitation services or to achieve or maintain the employment outcome.

(4) Long-term maintenance therapy, including ongoing counseling or medication management not directly tied to the vocational rehabilitation plan, shall not be authorized except when an exception pursuant to 781 KAR 1:020 is approved.

(5) Provider Qualifications: Mental restoration services shall be provided only by licensed psychiatrists and psychologists; licensed clinical social workers; certified psychologists with autonomous functioning; licensed psychological practitioner; licensed marriage and family therapists; licensed professional clinical counselors; or advanced practice registered nurses certified in psychiatric or mental health nursing. Mental restoration services may also be provided by associate-level licensed mental health professionals practicing under required state supervision.

(6) Psychosocial rehabilitation programs, including partial hospitalization, shall not be funded unless necessary for short-term stabilization essential to participating in vocational rehabilitation services and shall require prior approval by the office.

Section 11. Conditions Requiring Specialized Assessment.

(1) For individuals whose primary or secondary disabilities include learning disorders, morbid obesity, or addiction, the office may authorize assessment or restoration services only when necessary for participation in vocational rehabilitation services or to achieve the employment outcome identified in the IPE.

(2) Learning Disorders.

(a) Assessment or documentation of a learning disorder may be used to determine functional limitations relevant to the vocational goal.

(b) Existing educational documentation, including psychoeducational evaluations, individualized education programs, or other school-based assessments, may be accepted when sufficient to identify disability-related functional limitations.

(c) Additional diagnostic evaluations shall be authorized only when necessary to determine vocational rehabilitation needs.

(d) Services for individuals with learning disorders shall be limited to vocationally necessary interventions, including assistive technology, disability-related tutoring, or other restoration services permitted under Section 7.

(3) Morbid Obesity.

(a) Morbid obesity may be considered a disabling condition when it results in functional limitations that constitute a substantial impediment to employment.

(b) Eligibility and service decisions shall be based on current, documented functional limitations and not solely on weight, body-mass index, or medical diagnosis.

(c) Physical restoration services may be provided only when necessary to address disability-related functional limitations affecting participation in vocational rehabilitation services or achievement of the employment outcome.

(d) Services shall not include elective weight-loss procedures unless medically necessary to achieve or maintain the employment outcome and consistent with Section 7 of this administrative regulation.

(4) Addiction.

(a) Addiction may constitute a substantial impediment to employment when associated functional limitations affect the individual's ability to prepare for, obtain, maintain, or advance in competitive integrated employment.

(b) Mental health or addiction treatment services may be authorized as mental restoration services only when necessary for the employment outcome and when provided by licensed professionals meeting Section 7 requirements.

(c) The office may require documentation from a treatment or recovery provider sufficient to demonstrate that the individual can participate safely and effectively in training, job placement, or employment support.

(d) Participation in treatment or recovery programs may be required when necessary for the individual to benefit from vocational rehabilitation services, and any such requirement shall be documented in the case record.

(e) The office may suspend or amend services when the individual is unable to participate in vocational rehabilitation services due to relapse or instability, consistent with informed choice and case documentation requirements.

Section 12. Nursing Services.

(1) Nursing services, including private duty nursing home health aide services, or similar supports, may be provided as a physical restoration service when medically necessary to enable the individual to participate in vocational rehabilitation services or to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Nursing services shall be authorized only when:

(a) A written recommendation is provided by the attending physician or other licensed medical provider;

(b) Services are time-limited and necessary to support recovery or stabilization related to the employment outcome identified in the IPE; and

(c) Services are delivered by nursing personnel or aides who are appropriately licensed or credentialed in the jurisdiction where services are provided.

(3) Limitations.

(a) Nursing services shall be short-term in nature and shall not be authorized as long-term custodial maintenance, or attendant care.

(b) When nursing or attendant care is expected to extend beyond a short-term recuperative period, the service shall be considered under convalescent care in Section 9 of this administrative regulation or referral to appropriate community or public programs.

(c) Nursing services shall not be provided for conditions that are unrelated to the individual's disability-related vocational rehabilitation needs.

(4) Nursing services may be authorized in combination with other physical or mental restoration services, maintenance, or transportation when necessary to support participation in vocational rehabilitation services.

Section 13. Acute or Emergency Medical Conditions.

(1) Acute or emergency medical condition services may be provided when necessary to prevent an immediate or direct risk to the achievement of the employment outcome identified in the IPE, and only when the individual is already receiving vocational rehabilitation services at the time of onset of the condition.

(2) For purposes of this administrative regulation, an acute or emergency medical condition means an accident, illness, or health event with sudden onset and relatively short duration that requires urgent attention and that, if left untreated, would pose a serious hazard to the individual's ability to prepare for, obtain, maintain, or advance in competitive integrated employment.

(3) Acute or emergency medical treatment may be authorized only when all the following conditions are met:

(a) The individual was determined eligible for vocational rehabilitation services and had an approved IPE prior to the onset of the acute condition;

(b) The untreated condition would constitute a direct hazard to the individual's ability to achieve, maintain, or regain the employment outcome identified in the IPE; and

(c) The service is prescribed, provided, or supervised by a licensed medical professional appropriate to the condition.

(4) Acute or emergency medical services authorized under this Section are intended to be short-term and shall not exceed sixty (60) consecutive days for any single accident, illness, or episode, including necessary follow-up examinations or treatment, postoperative care, and any medically required intensive care during the acute period consistent with 781 KAR 1:020.

(5) Services under this Section shall not be provided when:

(a) The condition is chronic, stable, or requires ongoing medical management unrelated to the vocational objective;

(b) The service constitutes general health care or long-term maintenance; or

(c) The condition does not present a demonstrable risk to the employment outcome.

Section 14. Interpreter and Communication Access Services.

(1) Interpreter and communication access services may be provided to an eligible individual when necessary to ensure effective communication between the office and an individual, or to enable participation in vocational rehabilitation services or activities required to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Interpreter and communication access services shall be delivered by providers who possess the certification, licensure, or credentialing appropriate to the assignment and the individual's communication needs.

(3) The office shall provide the individual with information necessary to make an informed choice regarding interpreter qualifications, style, skill level, and certification appropriate to the assignment and communication preference of the individual.

(4) Interpreters and communication access providers shall comply with applicable professional codes of ethics, including requirements related to confidentiality and impartiality.

Section 15. Transportation Services.

(1) Transportation services may be provided to an individual when necessary for the individual to participate in a vocational rehabilitation service and shall not be provided as the sole service on the IPE.

(2) Transportation shall be the most reasonable and cost-effective option available that meets the individual's disability-related vocational needs.

(3) Transportation shall be time-limited and restricted to the period in which the individual is actively participating in the related vocational rehabilitation service, training, or activity.

(4) The office does not reimburse for travel when the individual uses a personal vehicle owned by someone else unless required for vocational reasons.

Section 16.[~~Section 2.~~] Driver Rehabilitation Technology Services.

(1) Driver rehabilitation technology services may be provided if[~~:~~]

[~~(a)~~] personal[~~Personal~~] transportation is required to meet the job goals specified on the IPE or is necessary to participate in other services required to achieve the employment objective identified on the IPE[~~individualized plan for employment;~~]

[~~(b)~~] [~~The individual meets the economic need qualifications established in 781 KAR 1:030; and~~]

[~~(c)~~] [~~The individual is within a category that is presently being served in the Order of Selection as established in 781 KAR 1:030~~].

(2) Driver training and extended driver evaluation may be provided if:

(a) The services are recommended by a qualified medical or rehabilitation professional, which may include a physician, an occupational therapist with driver rehabilitation training, a certified driver rehabilitation specialist, or another provider who meets applicable state licensure or certification requirements for driver rehabilitation services;

(b) If vehicle modification is required, the [~~applicant or eligible~~]individual meets the criteria for vehicle modification, as established in Section 18[~~3~~] of this administrative regulation;

(c) The [~~applicant or eligible~~]individual agrees to obtain additional practice as recommended by a certified driver rehabilitation specialist; [~~and~~]

(d) The [~~applicant or eligible~~]individual owns or has access to an appropriate vehicle both during and upon completion of driver's training;[~~.~~]

(e) The individual possesses, at a minimum, a valid driver's permit before any referral for driver evaluation is provided; and

(f) A qualified medical or rehabilitation professional, which may include a physician, an occupational therapist with driver rehabilitation training, a certified driver rehabilitation specialist, or another provider who meets applicable state licensure or certification requirements for driver rehabilitation services, has completed a driver evaluation and identified the type and amount of driver training and any needed adaptive driving equipment or vehicle modification.

(3) Driver rehabilitation technology services may be provided to an [~~applicant or eligible~~]individual who does not meet the requirements of subsection (2) of this section if the office[~~the Director of Field Services or designee~~] determines:

(a) That documentation exists that failure to provide the services will preclude the successful completion of the individualized plan for employment; or

(b) The provision of the service would result in a substantial cost savings to the office.

(4) Driver rehabilitation technology services shall not include general driver education or permit-preparation courses that are not directly related to the individual's disability and vocational rehabilitation needs.

(5) Transport evaluations may be provided when an individual will not drive but requires evaluation of safe entry to, exit from, or transport in a private vehicle to participate in vocational rehabilitation services or to obtain or maintain competitive integrated employment.

(6) Services requiring access to a vehicle for evaluation or training may be authorized only when the office determines that the

vehicle to be used is safe and appropriate for the recommended evaluation, training, or adaptive equipment.

(7) The office shall not purchase, lease or otherwise provide a motor vehicle for any individual. Vehicle purchase is not an allowable rehabilitation service and shall not be authorized as assistive technology, transportation, or as any other good or service under this administrative regulation. For purposes of this section, the term vehicle does not include wheelchairs, scooters, or any other mobility devices used as personal medical equipment under Section 6.

Section 17. Bioptic Driving Services.

(1) Bioptic driving services may be provided when independent transportation is vocationally necessary, the individual meets the visual and statutory requirements of KRS 186.576 to 186.579, and bioptic driving is identified as part of the employment strategy in the IPE.

(2) Bioptic driver rehabilitation services may include, as appropriate:

(a) Instruction in the use of the bioptic telescopic device;

(b) Preparatory or pre-driver training consistent with statutory and regulatory requirements;

(c) Behind-the-wheel driver rehabilitation training provided by a certified driver rehabilitation specialist or a qualified employee of the office; and

(d) On-road evaluation to determine readiness for driving skills testing and licensing.

(3) The office shall review annual comprehensive visual examination reports for licensed bioptic drivers as required by KRS 186.579(3)(b). If the report indicates instability or deterioration of visual function, the office may:

(a) Require additional visual assessment; and.

(b) Notify the Kentucky Transportation Cabinet Medical Review Board if the individual no longer meets statutory visual requirements.

(4) When a qualified vision specialist recommends removal of a daytime-only driving restriction, the office shall:

(a) Arrange the nighttime driving evaluation required by KRS 186.579(3)(b);

(b) Coordinate scheduling of any required nighttime road test with the Kentucky State Police; and

(c) Transmit evaluation results to the Kentucky Transportation Cabinet for licensing determination.

(5) The office may authorize bioptic driving services through programs that meet applicable state licensure or certification requirements. Individuals may also obtain bioptic services at their own expense, provided all statutory licensing requirements are met.

Section 18.[~~Section 3.~~] Vehicle Modification Services.

(1) Modification of a private vehicle shall be authorized if the[~~eligible~~] individual:

(a) Completes a driver evaluation and vehicle modification assessment by a rehabilitation technology specialist; and

(b) Obtains a vehicle modification prescription from a certified driver rehabilitation specialist.

(2) Modification of a private vehicle shall be provided on the most cost-effective vehicle necessary for the individual's personal transportation for employment, using the most cost-effective means of modification as documented in the rehabilitation technology assessment.

(3) Recoverable, nonpermanent modifications shall be provided for private vehicles if available and cost-effective. Permanent modifications shall be considered only when recoverable options cannot meet the individual's disability-related vocational needs.

(4) A vehicle modification shall not be performed on a vehicle other than that recommended by the office or qualified vendor[~~a certified driver rehabilitation specialist~~], unless:

(a) The vehicle can be modified to meet the individual's needs; and

(b) The individual assumes all costs associated with the modification of the vehicle in excess of the cost of modification of the recommended vehicle.

(5) Before a non-recoverable, permanent vehicle modification will be approved, an [~~eligible~~]individual shall obtain a valid Kentucky operator's license or, for nondriver passenger modification, documentation demonstrating vocational necessity for safe transportation.

(6) A non-recoverable, permanent vehicle modification costing in excess of $5,000 shall not be delivered to the [~~eligible~~]individual unless the [~~eligible~~]individual provides proof of insurance for the replacement cost of the vehicle and vehicle modifications.

(7) A vehicle modification costing in excess of $10,000 shall not be provided unless the [~~eligible~~]individual:

(a) Has a vocational objective of competitive integrated employment;

(b) Is employed, actively seeking work, or has a reasonable expectation of beginning work within six (6) months; and

(c) The office[~~Director of Field Services or designee~~] determines that the modification has a direct relationship to the employment objective and that failure to provide the modification would prevent the successful achievement of the employment objective or would result in a significant cost savings to the office.

(8) Vehicle modifications in excess of $10,000 shall not be provided on a used vehicle unless:

(a) The vehicle is no more than two (2) years old;

(b) The odometer on the vehicle reads no more than 50,000 miles; and

(c) An assistive technology specialist inspects the vehicle and determines that it is appropriate for the required modification.

(9) Vehicle modifications shall not be performed on a leased vehicle unless:

(a) An assistive technology specialist inspects the vehicle and determines that it is appropriate for the required modification;

(b) Written permission for the specific modification is obtained from the leasing company; and

(c) Recoverable, nonpermanent equipment is used.

(10) The [~~eligible~~]individual shall be solely responsible for providing maintenance, repair, and upkeep to the modifications as established in any relevant warranties.

(11) The [~~eligible~~]individual shall pay for any maintenance, service, and repairs for modifications not under warranty except as provided in Sections 19 and 20[~~Section 4(2)~~] of this administrative regulation.

Section 19.[~~Section 4.~~] Upgrade and Repair of Vehicle Modifications.

(1) An upgrade to a vehicle modification shall not be provided unless:

(a) The upgrade is required due to a medically documented change in status or function that necessitates a change in driving equipment or vehicle chassis;

(b) The [~~eligible~~]individual is employed in a competitive integrated employment setting; and

(c) The [~~eligible~~]individual completes a driver evaluation or non-recoverable, permanent vehicle modification assessment[~~ as established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010~~].

(2) If the vehicle upgrade involves the purchase of a driving system, the vehicle shall be inspected by the office[~~an assistive technology specialist~~] and found:

(a) To be appropriate for the proposed modification; and

(b) To meet all manufacturer requirements for the proposed driving system.

(3) A repair to a vehicle modification shall be provided if:

(a) The [~~eligible~~]individual is currently competitively employed in an integrated setting, as defined in 34 C.F.R. 361.5(c)(9);

(b) The repair is not required as a result of the [~~eligible~~]individual's negligence, misuse, abuse of the equipment, or failure to provide proper maintenance of the equipment;

(c) The [~~eligible~~]individual provides the office with maintenance records for the vehicle and vehicle modifications;

(d) The office[~~An assistive technology specialist~~]:

1. Inspects the maintenance records of the vehicle and vehicle modifications;

2. Determines that the maintenance has met manufacturer requirements;

3. Inspects the vehicle and modifications;[~~ and~~]

4. Determines that is reasonable to repair the modification; and

5. Determines that the vehicle will be safe to operate once repaired; and

(e) The [~~eligible~~]individual completes a driver evaluation by a certified driver rehabilitation specialist and obtains a non-recoverable, permanent vehicle modification prescription from the specialist, if requested by the office[~~ as established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010~~].

(4) An upgrade or repair to a vehicle modification costing in excess of $10,000 shall not be provided unless the office[~~Director of Field Services or designee~~] determines that failure to provide the update or repair would prevent the successful maintenance of competitive integrated employment or would result in a significant cost savings to the office.

(5) An upgrade or repair may be provided to an [~~eligible~~]individual who does not meet the requirements of this section if the office[~~Director of Field Services or designee~~] determines:

(a) That documentation exists that failure to provide the services will preclude the successful achievement or maintenance of competitive integrated employment under[~~completion of~~] the individualized plan for employment; or

(b) The provision of the service would result in a substantial cost savings to the office.

Section 20.[~~Section 5.~~] Repeat Vehicle Modifications.

(1) Except as provided in this section, or as approved under the exception process in 781 KAR 1:020, the office shall not provide more than one (1) vehicle modification per [~~eligible~~]individual.

(2) The office shall provide a repeat vehicle modification if:

(a) The [~~eligible~~]individual is currently working in a competitive integrated employment setting, as defined in 34 C.F.R. 361.5(c)(9);

(b) The [~~eligible~~]individual has a five (5) year work history since the last modification and has been working consistently for a minimum of two (2) years;

(c) The previously modified vehicle has at least 105,000 additional miles on it since the last modification;

(d) An assistive technology specialist inspects the vehicle and modifications and recommends replacement of the vehicle or modifications;

(e) The [~~eligible~~]individual provides the office with a maintenance record for the vehicle and modifications that demonstrates that the maintenance has been provided according to manufacturer requirements;

(f) The [~~eligible~~]individual completes a driver evaluation by a certified technology specialist and obtains a vehicle modification prescription from the specialist; and

(g) The office[~~Director of Field Services or designee~~] determines that failure to provide the repeat modification will prevent successful maintenance of competitive integrated employment or would result in a significant cost savings for the office.

Section 21.[~~Section 6.~~] Property Modification.

(1) Permanent, nonrecoverable modification to a private home, business, or property may be provided if:

(a) The office[~~A qualified rehabilitation counselor~~] determines the property modification[~~it is~~] essential to achieve the employment objective of the [~~eligible~~]individual;

(b) [~~The eligible individual meets economic needs qualifications established in 781 KAR 1:030;~~]

[~~(c)~~] The office[~~A qualified rehabilitation counselor~~] determines that failure to provide the modification will preclude the successful achievement of the employment goal;

(c)[~~(d)~~] A property modification assessment identifying the most effective and lowest-cost modification that will meet the individual's disability-related needs is completed by the office[~~an assistive technology specialist~~];

(d)[~~(e)~~] The [~~eligible~~]individual or family member owns the property to be modified and is current on any mortgage payments, and has owned the property for at least two (2) years unless an exception is approved under subsection (4) of this section; and

(e)[~~(f)~~] The [~~eligible~~]individual has not received permanent, nonrecoverable modifications to a home from the office in the past.[~~; and~~]

[~~(g)~~] [~~The eligible individual is within a category that is presently being served in the order of selection as established in 781 KAR 1:030~~].]

(2) Property modifications in excess of $30,000 or twenty (20) percent of the Property Value Administrator (PVA) assessment value of the home or property, whichever is less, shall not be provided.

(3) Property modifications shall be limited to the most cost effective means of safely addressing the disability needs of the [~~eligible~~]individual as required for employment and shall:

(a) Be recoverable, nonpermanent modifications[~~, if possible~~];

(b) Be cost effective;

(c) Provide access to one (1) entrance to and exit from the home, business, or property;

(d) Provide access to entrance to and exit from one (1) bathroom area and use of the facilities in that bathroom;

(e) Provide access to entrance to and exit from one (1) bedroom area; and

(f) Allow access to corridors necessary to access the bathroom and entrance and exit area of the property.

(4) A property modification shall not be provided when a qualified contractor determines that the existing structure cannot safely support the modification without structural reinforcement, reconstruction, or other improvements prohibited under subsection (5) or requiring upgrades to underlying systems or structures as described in subsection (6).

(5)[~~(4)~~] Property modifications shall not be provided to homes or properties purchased within the last two (2) years unless there is medical documentation to support a finding that there has been a significant change in status or function of the [~~eligible~~]individual that has occurred since the initial purchase of the property, and that finding could not have been anticipated when the home or property was purchased.

(6)[~~(5)~~] Property modifications shall not include structural additions to existing properties or the purchase of new property. Structural additions include any improvement that increases the footprint or square footage of the structure.

(7)[~~(6)~~] The office shall not restore modified property to its original condition or upgrade areas of the property not affected by the modification into compliance with current local building codes.

(8) All work funded by the office shall comply with applicable building codes, but the property owner shall be responsible for upgrades required to bring underlying structures or systems into compliance before a modification is undertaken.

(9)[~~(7)~~]

(a) A request from the individual to make changes or additions to the recommendation of the office [~~assistive technology specialist~~]shall be approved in writing by the office[~~specialist~~] prior to being implemented in order to ensure that the modification does not affect the accessibility of the project; and

(b) The cost of all changes or additions shall be assumed by the [~~eligible~~]individual.

(10)[~~(8)~~] The [~~eligible~~]individual shall provide maintenance, repair, and upkeep to the modifications as required for relevant warranties.

(11)[~~(9)~~] The [~~eligible~~]individual shall be solely responsible for maintenance, service, and repairs for modifications not under warranty.

(12)[~~(10)~~] Property modifications may[~~shall~~] be provided to an [~~eligible~~]individual that does not meet all the requirements of this section if the office[~~Director of Field Services or designee~~] determines that failure to provide the modification would prevent the successful achievement of the vocational objective or would result in a significant cost savings to the office. Exceptions shall not be granted for modifications requiring structural reinforcement, additions, or upgrades to underlying structures or systems prohibited under subsections (5) or (6).

Section 22. Community Rehabilitation Program ("CRP") and Supported Employment Services.

(1) The office may purchase community rehabilitation services from a community rehabilitation program when such services are necessary for an individual to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) CRP services shall be consistent with the IPE and shall be provided only when they address disability-related vocational needs.

(3) CRP services may include, as appropriate:

(a) Comprehensive vocational evaluation;

(b) Limited assessment services;

(c) Adjustment services;

(d) Employment and retention services; and

(e) Supported employment services for individuals with the most significant disabilities.

(4) Adjustment services shall be time-limited and shall not be used as long-term or permanent employment. The expected duration generally shall not exceed six (6) months from the authorization date unless an exception is approved in accordance with 781 KAR 1:020.

(5) Employment and retention services may include job development, job placement, initial job coaching, and time-limited follow-up supports when necessary to achieve or maintain a competitive integrated employment outcome.

(6) Supported employment services may be provided to individuals with the most significant disabilities through community rehabilitation programs or other qualified providers, consistent with 34 C.F.R. 361.5(c), 361.48(b), 361.55, and 34 C.F.R. Part 363.

(7) Supported employment services shall be:

(a) Provided in competitive integrated employment and shall be designed to achieve and maintain a competitive integrated employment outcome;

(b) Time-limited; and

(c) Provided in conjunction with ongoing support services and extended services to be provided by another public or private entity after vocational rehabilitation services are concluded.

(8) Community Rehabilitation Program Eligibility and Payment. To receive payment as a community rehabilitation program under this section, an entity shall:

(a) Meet the federal definition of a community rehabilitation program in 34 C.F.R. 361.5(c);

(b) Be approved by the office as a vendor in accordance with state procurement requirements; and

(c) Receive authorization for the services provided.

(9) CRPs shall provide written reports and documentation sufficient to support case decisions and payment.

Section 23. Post-Secondary Training and Transition Services.

(1) Post-secondary education and post-secondary transition program services may be provided when required to achieve the employment outcome identified in the IPE and when consistent with the individual's strengths, interests, abilities, and informed choice.

(2) Post-secondary transition program services may be provided if:

(a) The individual meets age and eligibility criteria; and

(b) Participation in the program is necessary to achieve the employment outcome identified in the IPE.

(3) Allowable services may include, as appropriate:

(a) Tuition, required fees, books, and supplies;

(b) Training-related transportation and maintenance consistent with Sections 15 and 31(2) of this administrative regulation;

(c) Classroom accommodations and auxiliary aids, including interpreters, note-takers, adaptive materials, and assistive technology;

(d) Tutorial services and educational assistance consistent with Section 29 of this administrative regulation; and

(e) Disability-related supports necessary for participation and progress.

(4) The office shall coordinate post-secondary education funding with federal student aid and other available funding sources before authorizing payment for post-secondary education.

(5) Support for post-secondary training shall be limited to the most cost-effective program that meets the individual's vocational needs and shall not be authorized when training is not clearly linked to an employment outcome.

(6) The individual shall maintain satisfactory academic or training progress consistent with institutional standards and expectations documented in the IPE. The office may authorize continued support for one (1) additional term when justified and documented.

(7) Recognized secondary or post-secondary credentials and measurable skill gains for individuals receiving training services shall be documented, in accordance with 34 C.F.R. 361.155.

Section 24. Job Placement Services.

(1) Job placement services may be provided when necessary to achieve the employment outcome in the IPE.

(2) Job placement services may be delivered by office staff, community rehabilitation programs, supported employment providers, on-the-job training providers, or other qualified vendors, consistent with informed choice.

(3) Job placement services may include, as appropriate:

(a) Job development and job leads;

(b) Assistance with job applications and interviews;

(c) Identification of reasonable accommodations;

(d) Coordination of supports needed to begin employment; and

(e) Other services necessary to obtain competitive integrated employment.

(4) Employment obtained through job placement services shall occur in the most integrated setting appropriate and shall meet the definition of competitive integrated employment in 34 C.F.R. 361.5.

(5) Self-employment may be considered a suitable employment outcome if it meets the definition of competitive integrated employment in 34 C.F.R. 361.5 and is developed and approved in accordance with 781 KAR 1:020.

(6) Home-based employment, including telework or remote work, may be considered suitable if it meets competitive integrated employment requirements. Home-based work shall not be considered self-employment unless the individual owns and operates the business.

Section 25. Post-Employment Services.

(1) Eligibility and status.

(a) Post-employment services may be provided only to individuals who:

1. Have been determined eligible for vocational rehabilitation services;

2. Have achieved an employment outcome; and

3. Require limited vocational rehabilitation services to maintain, regain, or advance in competitive integrated employment.

(b) A re-determination of eligibility is not required for post-employment services.

(c) Post-employment services shall be provided under an amended IPE, developed and implemented in accordance with 34 C.F.R. 361.45 and 361.46.

(2) Post-employment services shall:

(a) Consist of one (1) or more vocational rehabilitation services permitted under 34 C.F.R. 361.48(b);

(b) Be limited in scope and duration; and

(c) Address rehabilitation needs that do not require a complex or comprehensive provision of services.

(3) Post-employment services may include, as appropriate, maintenance of assistive technology, short-term training or support to address changes in job duties, or other time-limited services necessary to maintain, regain, or advance in competitive integrated employment.

(4) Post-employment services shall not be used to provide a comprehensive new sequence of services equivalent to initial vocational rehabilitation services. If comprehensive services are required, the office shall:

(a) Conclude post-employment services;

(b) Close the existing case in accordance with federal requirements; and

(c) Assist the individual to apply for a new case, including assessment to determine eligibility and development of a new IPE, if appropriate.

(5) Post-employment services shall be provided only under an IPE amendment that:

(a) Identifies the employment outcome being maintained, regained, or advanced;

(b) Specifies the post-employment services to be provided; and

(c) Describes how the services are necessary to maintain, regain, or advance in competitive integrated employment.

(6) Post-employment services should be initiated and completed, when feasible, prior to case closure and reporting of the employment outcome to the Rehabilitation Services Administration.

(a) A case that has been closed in competitive integrated employment and reported to the Rehabilitation Services Administration shall not be re-opened solely for the purpose of providing post-employment services.

(b) If an individual whose case has been closed in competitive integrated employment later requires vocational rehabilitation services to maintain, regain, or advance in employment, the individual shall apply for services and be evaluated for eligibility in accordance with 781 KAR 1:020 and federal requirements.

Section 26. On-The-Job Training Services.

(1) On-the-job training (OJT) services may be provided when:

(a) The individual has been determined eligible for vocational rehabilitation services;

(b) The training is necessary to achieve the employment outcome identified in the IPE; and

(c) The employer agrees to hire the individual as an employee for the duration of the training.

(2) An OJT agreement shall be executed between the office, the employer, and the individual and shall describe the duties, duration, supervision, and reimbursement terms.

(3) The office may:

(a) Reimburse the employer for a portion of wages paid during training, consistent with allowable reimbursement rates and conditions;

(b) Authorize training for the period reasonably required to learn the essential job duties; and

(c) Provide related vocational rehabilitation services needed to support successful completion of the training.

(4) The employer shall.

(a) Comply with all applicable wage, hour, and nondiscrimination laws;

(b) Provide wage and benefit parity with similarly situated employees; and

(c) Provide regular progress evaluations as required by the office.

(5) OJT shall lead to competitive integrated employment and shall not be authorized when that outcome is not expected.

Section 27. Work Experience Program Services.

(1) Work Experience Program (WEP) services may be provided when necessary to:

(a) Determine vocational potential;

(b) Develop work behaviors, skills, or tolerances; or

(c) Support the employment outcome identified in the IPE.

(2) WEP Services may include, as appropriate:

(a) Orientation in work readiness or work behaviors;

(b) Slot placement in a community worksite for supervised work experience; and

(c) Job placement assistance needed to secure competitive integrated employment.

(3) WEP positions shall be temporary, shall not displace existing employees, and shall comply with applicable wage and labor requirements.

(4) WEP stipends are paid to participants and shall not constitute wages or create an employer–employee relationship with the office.

(5) WEP services shall be limited to the level and duration necessary to accomplish the objectives identified in the IPE and may be extended only as approved in accordance with 781 KAR 1:020.

Section 28. Pre-Employment Transition Services.

(1) Pre-employment transition services (Pre-ETS) shall be provided to students with disabilities in accordance with 29 U.S.C. § 733; 34 C.F.R. 361.48; and in coordination with state and local educational agencies responsible for the provision of special education or related services under the Individuals with Disabilities Education Act.

(2) The office shall provide or arrange for the provision of Pre-ETS to students with disabilities who are eligible or potentially eligible for vocational rehabilitation services. Pre-ETS may be provided individually or in groups.

(3) Pre-ETS shall include the following required activities:

(a) Job exploration counseling;

(b) Counseling on opportunities for enrollment in comprehensive transition and post-secondary programs;

(c) Workplace readiness training to develop social skills and independent living skills;

(d) Instruction in self-advocacy, including peer mentoring; and

(e) Work-based learning experiences in competitive, integrated settings to the maximum extent possible.

(4) Potentially eligible students may receive only the required Pre-ETS described in subsection (3) of this Section and auxiliary aids or services necessary to enable participation in those activities.

(5) Additional vocational rehabilitation services, including maintenance, transportation, job coaching, or rehabilitation technology, may be provided only after the student applies for and is determined eligible for vocational rehabilitation services and has an approved IPE.

(6) Work-based learning experiences shall occur in competitive integrated settings to the maximum extent possible and shall comply with applicable child labor, wage, and safety requirements.

(7) Pre-ETS funds may be used to provide stipends directly to students when the payment is part of a structured work-based learning experience or program delivery by the office, and when the payment does not replace wages otherwise due from an employer or create an employer-employee relationship with the office.

(8) A potentially eligible student who has not applied for vocational rehabilitation services shall not be subject to the order of selection. A student who applies for services shall be subject to the order of selection consistent with federal requirements.

Section 29. Tutorial Services and Educational Assistance.

(1) Tutorial services and educational assistance may be provided when necessary for an individual to participate in or benefit from training or education required for the employment outcome identified in the IPE.

(2) Disability-related tutoring may be authorized when:

(a) The individual has a documented disability that results in functional limitations affecting learning or academic performance; and

(b) The tutoring is designed to address those limitations or to teach compensatory strategies needed to succeed in the training program.

(3) Remedial instruction and content tutoring may be authorized when:

(a) the individual requires basic skill development or assistance in a specific course to complete training necessary for the employment outcome; and

(b) comparable services and benefits, such as adult education or institutional tutoring services, are unavailable, inadequate, or would result in unreasonable delay.

(4) Educational assistance services may be provided when non-instructional support is required for the individual to access or participate in training, post-secondary education, or other vocational services included on the IPE. Educational assistance may include, as appropriate:

(a) reading or recording of course materials;

(b) typing or transcription of assignments;

(c) note-taking or page-turning;

(d) locating or organizing reference materials; or

(e) similar supports required for full participation.

(5) Tutorial and educational assistance services shall be coordinated, to the maximum extent appropriate, with

accommodations and auxiliary aids provided by the training institution or other comparable services and benefits.

Section 30. Independent Living Services and Older Individuals Who Are Blind Services.

(1) Independent Living (IL) and Older Individuals Who Are Blind (OIB) services may be provided to assist individuals who are blind or visually impaired to improve or maintain their ability to function independently. An employment outcome shall not be required for eligibility for IL or OIB services.

(2) Eligibility, service categories, and allowable expenditures for IL and OIB shall be consistent with applicable federal grant requirements. IL and OIB services must be non-duplicative and coordinated with vocational rehabilitation services.

(3) For individuals who receive both vocational rehabilitation and IL or OIB services, the Rehabilitation Counselor for the Blind and the IL or OIB counselor shall coordinate assessment, planning, and service delivery.

(4) Bioptic-related services provided solely for independent living purposes shall comply with KRS 186.576 to 186.579 and applicable federal program requirements. Payment for bioptic devices, private driver training, licensing fees, or other driving-related costs under the IL or OIB programs shall be at the discretion of the office, consistent with available program funds and allowable cost categories under 34 C.F.R. Part 367.

(5) Services and adaptive devices under IL and OIB programs shall be subject to the availability of funds and any federal grant conditions governing those programs.

Section 31. Other Allowable Services.

(1) Personal Assistance Services.

(a) Personal assistance services may be provided when necessary for participation in vocational rehabilitation services or to maintain competitive integrated employment.

(b) Personal assistance services shall be provided only while the individual is receiving other vocational rehabilitation services or is engaged in employment consistent with the IPE.

(c) Long-term ongoing personal assistance needs shall be referred to appropriate community or Medicaid-funded programs.

(d) Personal assistance services shall be excluded from financial participation but remain subject to comparable services and benefits.

(2) Maintenance.

(a) Maintenance may not be used to fund an individual's normal living expenses.

(b) Maintenance may include short-term room and board, or other subsistence costs required to participate in vocational rehabilitation services.

(c) Payments in such circumstances may not exceed three months.

(3) Medication.

(a) Medication, as used in this Section, means prescribed pharmaceutical agents and related medical supplies provided for a limited duration to support the individual's participation in other vocational rehabilitation services.

(b) Medication may be provided when necessary for the individual to participate in or benefit from a substantial vocational rehabilitation service, and when comparable services and benefits are unavailable or would result in unreasonable delay.

(c) Medication shall not be provided as a stand-alone service or for long-term maintenance treatment of chronic conditions.

(4) Occupational Licenses, Examinations, Tools, Equipment, and Supplies.

(a) The office may purchase occupational licenses, certification or board examinations, required permits, and related documentation necessary for an individual to enter or maintain employment consistent with the IPE.

(b) The office may purchase tools, equipment, supplies, or initial stock when essential for participation in training or for initial employment, and when such items are not routinely provided by the employer or training program. "Initial stock" means the minimum consumable materials required to begin the job or training activity and does not include ongoing inventory or replenishment.

(c) The office shall pay only initial fees for licensure, certification, or union membership unless additional payments are necessary to complete the vocational rehabilitation plan.

(d) The office shall not purchase voluntary or optional memberships unless they are required for the specific employment outcome.

(5) Ownership and Recovery of Tools and Equipment.

(a) Items purchased by the office under subsection (4) shall remain the property of the office until the individual successfully completes training or retains employment and closed as successfully employed.

(b) If items are no longer needed or the individual does not complete the training or employment objective, the office may recover items in reusable condition and reassign them to other individuals.

(c) The office shall not purchase deluxe, optional, or premium versions of tools or equipment when a standard model is adequate.

(d) The office shall not replace lost, stolen, or damaged items except where loss occurred through no fault of the individual and with supporting documentation.

(6) Services to Family Members.

(a) Services to family members may be provided when necessary for the individual to participate in assessments, vocational rehabilitation services, or to carry out the IPE.

(b) Such services shall be provided only when failure to provide them would reasonably be expected to delay, interrupt, or prevent achievement of the employment outcome of the individual, and when they are not otherwise readily available through existing community resources.

(7) Other Goods and Services.

(a) The office may authorize goods and services not specifically listed in this administrative regulation when necessary for an individual to participate in vocational rehabilitation services or to achieve the employment outcome identified in the IPE, consistent with 34 C.F.R. 361.48(b).

(b) Goods or services that are personal in nature, unrelated to vocational rehabilitation, or primarily for general health, wellness, or household support shall not be authorized.

(c) The office shall not provide goods or services that constitute long-term maintenance or supports more appropriately provided through other public programs or community resources.

(d) Goods and services authorized under this subsection shall be documented in the case record and must be directly related to the individual's vocational rehabilitation needs.

VICKIE WISE, Deputy Secretary

APPROVED BY AGENCY: December 30, 2025

FILED WITH LRC: December 31, 2025 at 12:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 24, 2026, at 11:00 am, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, KY 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brooke McDaniel

Subject Headings: Disability and Disabilities, Workforce Development, Education

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative

regulation outlines the requirements for receiving goods and services from the Office of Vocational Rehabilitation (OVR) in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq.
(b) The necessity of this administrative regulation: KRS 151B.195 requires OVR to promulgate administrative regulations outlining the administration of vocational rehabilitation services in Kentucky in compliance with the federal Rehabilitation Act KRS 151B.180, et seq.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation governs the provisions of goods and services to individuals by OVR.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists individuals seeking goods and services from OVR in understanding the requirements to obtain the different types of goods and services.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The proposed amendments are made to clearly outline the requirements regarding each type of good or service provided by OVR.
(b) The necessity of the amendment to this administrative regulation: Changes to the regulation are necessary so that individuals will understand the requirements regarding each type of good or service provided by OVR. (c) How the amendment conforms to the content of the authorizing statute: This amendment conforms to the authorizing statutes by outlining the specific requirements for each good or service provided by OVR.
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes: This amendment clearly outlines the requirements regarding each type of good or service provided by OVR.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No person or entity is required to take action as a result of this amendment.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no new costs to any person or entity.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated individuals will have a better understanding of the requirements to obtain goods and services.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No additional costs are expected.
(b) On a continuing basis: No additional costs are expected.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds received by the Office of Vocational Rehabilitation and the required state match funds; however, there are no additional costs as a result of this proposed amendment.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this amendment to the existing administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all affected entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: 29 U.S.C. § 721-723; 34 C.F.R. Part 361; KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This act is authorized by KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a) Not applicable.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management
(Amendment)

902 KAR 8:060. Salary adjustments for local health departments.

RELATES TO: KRS 211.170(1), (2), 211.1751, 211.1752, 211.1755, 212.170, 212.870
STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755(2)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.1755(2) requires the cabinet to promulgate administrative regulations establishing the policies and procedures of the local health department personnel program. This administrative regulation establishes the policies and procedures regarding salary adjustments for local health departments.

Section 1. Salary Upon Appointment.
(1) The entrance salary of an employee entering employment shall be at the minimum of the range established for the class to which the employee is appointed, unless otherwise approved by the department, based on the criteria established in subsections (2) and (3) of this section.
(2)
(a) Prior to the start date of a new employee, and upon approval by the department, a new minimum entrance salary may be established by an agency if it is determined that it is not possible to recruit qualified employees for a class of positions at the established entrance salary.
(b) If an appointment is made at the newly established minimum entrance salary, employees of the agency in the same class paid at a lower salary shall have their salaries adjusted to the newly established minimum entrance salary.
(c)
1. If a new minimum entrance salary is established by an agency for a specified class, in addition to the adjustment required by subsection (3) of this section, based on documented recruitment needs, or a new entrance salary is established by a compensation plan change, the department may approve a salary adjustment for employees in the same class.
2. The adjustment shall be a fixed amount provided to each employee in the classification and shall not exceed the amount of increase applied to the newly established minimum.
3. In fixing salaries for this adjustment, an appointing authority shall afford equitable treatment to all employees affected by the adjustment.
(3)
(a) An appointment of an applicant who meets the minimum requirements for a position may be above minimum salary within the salary range applicable to the class, if:
1. The newly appointed employee has previous, relevant experience above the minimum requirements of the job;
2. It is necessary to attract qualified applicants; and
3. The newly appointed employee's hire rate does not exceed the salary of a present employee in the same classification with the comparable years of relevant experience, education, and training.
(b) If the individual possesses qualifications in training and experience in addition to the minimum requirements for the class, the rate of pay may be between the classification minimum and midpoint for appointment[~~newly appointed employee may receive a two (2) percent salary adjustment, not to exceed the midpoint, for each year of appropriate experience~~][~~and education or training in excess of the minimum requirements for the respective classification~~].
(c) An employee possessing the same qualifications, in the same class of positions, in the same agency, and who is paid below the entrance salary level as adjusted for the newly appointed employee, shall have his or her salary adjusted to the approved entrance salary level plus five (5) percent.

Section 2. Initial Probationary Salary Adjustment.
(1) The appointing authority shall grant an employee a five (5) percent increase in salary upon successful completion of the required initial employment probationary period as specified in 902 KAR 8:080 Section 9(2). The salary adjustment shall take effect the first pay period following completion of the probationary period.
(2) Except as provided for in 902 KAR 8:080, Section 3(2)(a), an employee shall not be given an original probationary increment more than once for successful completion of the probationary period in the same classification.

Section 3. In-Range Salary Adjustment.
(1) An appointing authority may request a salary adjustment not to exceed five (5) percent if an employee is assigned permanent job duties and responsibilities that are more complex and difficult than current job duties and grade level, but are less than those indicated through a reclassification.
(2) Only one (1) in-range salary adjustment shall be allowed for an employee per classification.
(3) The appointing authority may request to remove the in-range salary adjustment if the in-range duties are removed. The salary shall be decreased by the equivalent dollar amount of the increase at the time of[~~revert to the previous amount prior to~~] the in-range adjustment.

Section 4. Reclassification.
(1) A position shall be reclassified if the duties and responsibilities of a position have materially changed.
(2) An agency may request a reclassification of a regular status employee to a different position:
(a) Within the same classification series that has more complex nonsupervisory job duties and responsibilities and has a higher grade level; or
(b) In a different classification series that has the same or higher grade level.
(3) A regular status employee to be reclassified shall:
(a) Meet the minimum requirements of the new classification; and
(b) Have not previously performed the primary duties of the new classification.
(4) An employee that is reclassified with or without probation to a position having a higher pay grade shall receive a salary increase that is the higher of:
(a) Five (5) percent of the employee's current salary;
(b) Three (3) percent for each grade increase to the new position not to exceed ten (10) percent; or
(c) The minimum salary of the grade assigned to the new position.
(5) A reclassified employee shallserve a probationary period of thirteen (13) pay periods if the reclassification is to a supervisory position or a different classification series within the same grade. If the employee has performed satisfactorily, as determined by the employee's supervisor, the employee shall receive a five (5)[~~three (3)~~] percent salary increase at the end of the probationary period.

Section 5. Promotion of an Employee to a Vacant Position.
(1) An employee may be promoted upon the request of an appointing authority if the employee meets the minimum requirements of the vacant position having a higher salary determined by the department to have more extensive and complex job duties and responsibilities.
(2) An employee who is advanced to a higher pay grade through a promotion shall receive a salary increase that is the higher of:
(a) Five (5) percent;

(b) Three (3) percent for each grade increase to the new position not to exceed ten (10) percent; or

(c) The minimum salary of the new position.

(3)

(a) The employee shall serve a promotional probationary period of thirteen (13) pay periods and, except as provided by paragraph (b) of this subsection, shall receive a five (5)[~~three (3)~~] percent salary increase following satisfactory completion of the probationary period, as documented by the performance evaluation; or

(b) If the employee was promoted while serving an initial probation, this shall be considered a new initial probation, and the probation timeline shall start again from the date of promotion[~~the employee shall receive a five (5) percent increment in salary instead of a three (3) percent increase~~].

Section 6. Demotion. If an employee is demoted, the appointing authority shall determine the salary in one (1) of the following ways:

(1) If an employee requests a voluntary demotion:

(a)

1. The employee's salary shall be reduced by five (5) percent for one (1) grade; or

2. For multiple grades, three (3) percent for each grade decrease not to exceed ten (10) percent; and

(b) The employee's salary shall be reduced by an additional three (3) percent if the voluntary demotion is to a position that no longer requires supervisory responsibilities;

(2)

(a) If the demotion is due to reorganization by the agency, the employee may retain the salary received prior to demotion. If the employee's salary is not reduced upon demotion, and funding is sufficient, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files; or

(b) The salary of an employee who is demoted because of a documented disciplinary problem or inability to perform a duty or responsibility required of the position shall be reduced by ten (10) percent of their current salary or to the minimum of the new grade; and

(3) The salary of an employee demoted as a result of documented unsatisfactory performance during the promotional probationary period shall be reduced to the level prior to promotion.

Section 7. Salary Upon Reinstatement of a Former Employee.

(1) A former employee may be reinstated to a position for which the employee was previously employed.

(2) The salary of an employee that is reinstated shall be at the higher of:

(a) The same pay rate the employee had been paid at the termination of service, if the time period between separation and reinstatement does not exceed three (3) years;

(b) The current established minimum entrance salary above the former salary; or

(c) Compensation plan changes.

Section 8. Salary Upon Re-employment.

(1) A former employee may be re-employed to a position for which the employee was previously employed up to one (1) year after separation.

(2) The salary of an employee that is re-employed shall be:

(a) At the same pay rate the employee had been paid at the termination of service, if the period between separation and re-employment does not exceed one (1) year; or

(b) In accordance with Section 6(1) of this administrative regulation if re-employed to a lower classification.

Section 9. Lump Sum Merit Payment.

(1) The appointing authority, with the approval of the department, may award a regular, full-time, part-time 100 hour, or part-time employee a merit lump sum payment.

(2) The appointing authority may grant a lump sum merit payment to an employee meeting the eligibility criteria of this section in an amount not to exceed eight (8) percent of the employee's current salary or established minimum of the employee's classification grade during the annual evaluation period of twenty-six (26) pay periods.

(3) A lump sum merit payment may be granted by the appointing authority with the approval of the department, to an employee meeting the following eligibility criteria:

(a) The employee has completed the initial probationary period required on appointment; and

(b)

1. The employee's job performance is consistently above what is normally expected or required by the job duties and responsibilities; or

2. The employee has successfully completed a special project of significant importance to warrant special attention.

(4) The appointing authority shall prepare and submit written documentation to the department that shall substantiate that the employee satisfies the eligibility criteria in this section for the lump sum merit payment to be effective.

(5) The appointing authority shall inform the Board of Health of the number of lump sum merit payments granted during the fiscal year that exceed $2,000 per payment unless the payment is based on the 902 KAR 8:096 annual evaluation.

(6) An agency may grant a one (1) time lump sum merit payment across the board during the fiscal year to all regular status employees in recognition of the agency exceeding expectations.

(a) The flat amount per employee shall not exceed $1,500[~~$1,000~~]; and

(b) The appointing authority shall receive prior approval from the Board of Health and the department.

Section 10. Detail to Special Duty.

(1) A regular status[~~An~~] employee may be detailed to special duty on a temporary basis, not to exceed twenty-six (26) pay periods, to:

(a) Occupy a position and assume the job duties and responsibilities of an employee on an approved leave of absence or an employee that has separated from the agency; or

(b) To undertake a special project assigned by the appointing authority in addition to the employee's regular duties and responsibilities.

(2) An employee who is approved for detail to special duty shall receive a salary increase of five (5) percent during the detail to special duty.

(3) After completion of the special assignment, the employee shall be transferred to the classification or resume normal duties with the employee's salary reduced by an equivalent dollar amount of the increase at the time of the appointment to special duty[~~five (5) percent~~].

(4) An employee shall be entitled to salary increases provided by the agency during the special assignment.

Section 11. Educational Achievement and Skill Enhancement Pay.

(1) The job-related skill enhancement pay shall be granted to recognize and reward an employee who takes the initiative through his or her own efforts to increase job worth and significantly enhance his or her value to the agency by achieving a higher level of performance through a prescribed course of study in the employee's job field.

(2) An agency may elect not to participate in the educational achievement program if sufficient funds are not available.

(3) An employee shall not receive more than one (1) educational achievement salary increase.

(4) An appointing authority may grant a five (5) percent increase to an employee's salary for obtaining a high school diploma, high school equivalency certificate, or a passing score on the GED test:

(a) Outside of work hours; and

(b) While in the employment of the agency.

(5) An appointing authority may grant a five (5) percent increase to an employee's salary for postsecondary education or training if:

(a) The department has determined the employee has completed 260 hours of job-related classroom instruction;

(b) The employee began the course work after becoming an employee of the agency and completed the course work after establishing an increment date;

(c) The employee has completed the course work within five (5) years of the date on which it began;

(d) The course work has not previously been applied toward an educational achievement award;

(e) The agency has not paid for the course work or costs associated with it; and

(f) The employee was not on educational or extended sick leave when the courses were taken.

(6) An appointing authority may grant, with the approval of the department, an employee a lump sum merit payment not to exceed three (3) percent of the employee's grade minimum to an employee that presents a certificate, license, or other evidence of mastering a body of knowledge obtained through a prescribed course of study that is directly related to the position held and based on this evidence is identified as an approved program by the department.

(7) The salary adjustment for educational achievement shall not include on the job training provided by or required by the agency as part of the assigned job duties and responsibilities.

Section 12. Other Salary Adjustments.

(1)

(a) An agency may submit a request to the department substantiating the need for a specific salary adjustment for a regular status employee in classified service to address:

1. Compensation issues of the agency that negated the ability of the agency to commit available financial resources to salary adjustments based on the most recent compensation plan changes;

2. Special working conditions;

3. After hours adjustment if working hours cannot be adjusted;

4. Internal or external equity issues among individual employees or groups of employees; or

5. Other specific circumstances.

(b) The request shall address:

1. The nature of the salary issue;

2. The consequences of the salary issue;

3. Recommendation of an equitable resolution; and

4. Other pertinent information substantiating the need for the salary adjustment.

(c) The department may undertake a review of the request to determine the validity of the request, the impact on the submitting agency, and the impact on other agencies.

(2)

(a) An agency may grant a one (1) time salary adjustment for all employees during the fiscal year to:

1. Respond to retention and recruitment needs and issues of the agency based on the inability of the agency to attract and maintain a qualified workforce in order to provide services; or

2. Place the agency in a more favorable competitive market and equity position based on an assessment of comparable agencies.

(b) The salary adjustment shall be a prescribed amount given to an employee determined by:

1. Applying an amount not to exceed five (5) percent to the employee's grade minimum;

2. Applying an amount not to exceed five (5) percent to the employee's grade midpoint; or

3. Specifying a fixed hourly amount that would be provided to an employee.

Section 13. Discretionary Salary Increases.

(1) The appointing authority may grant, with the approval of the department, a salary increase not to exceed five (5) percent for a regular status employee or employees who have demonstrated, based on the current performance evaluation, excellent performance and achievement. This increase shall be limited to one (1) increase per evaluation year[~~annually~~].

(2) The Board of Health may grant a salary increase for a regular status public health director or administrator who has demonstrated, based on the current performance evaluation, excellent performance and achievement. The increase shall be limited to one (1) increase perevaluation year[~~annually~~].

JOHN R. LANGEFELD, MD, Commissioner
STEVEN J. STACK, MD, MBA, Secretary

APPROVED BY AGENCY: October 5, 2025
FILED WITH LRC: January 7, 2025 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks and Krista Quarles
Subject Headings: Local Health Departments; Personnel; Public Health

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the policies and procedures for salary adjustments for local health departments.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure consistent procedures are applied across all local health departments when establishing the initial salary for staff and for salary adjustments when applicable.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.1755 authorizes the cabinet to promulgate administrative regulations that establish policies and procedures for local health department salary, wage, and price policy, as well as the methods for salary increments.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all local health departments are following consistent policies and procedures related to establishing employee salary and for awarding salary adjustments.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation adds that the salary for newly appointed personnel can be a range between the classification minimum and midpoint, adds clarification to ensure that an employee who has received an in-range salary adjustment due to a change in job duties or who has been detailed to special duty does not lose salary increases, such as annual pay raises when the in-range duties or special duty ends, increases the salary increase from three to five percent when an employee successfully completes a probationary period, and clarifies that discretionary salary increases are limited to once per evaluation year.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to make a local health department competitive in the job market by helping to ensure staff receive a living wage. The amendment also ensures staff who have received a salary adjustment and annual raises while performing special in-range or detailed to special duty do not lose the annual pay raises when those duties end.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.1755 authorizes the cabinet to promulgate

administrative regulations that establish policies and procedures for local health department salary, wage, and price policy, as well as the methods for salary increments.
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation ensures all local health departments are following consistent policies and procedures related to establishing employee salary and for awarding salary adjustments.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment to this administrative regulation will impact employees at fifty-eight (58) local health departments.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Local health departments will need to be aware of the changes to this administrative regulation and make any necessary adjustments to payroll systems.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The costs to the local health departments will be dependent on staffing.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Local health departments will be more competitive in their ability to attract and retain a qualified workforce.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: This is an ongoing program, there are no initial costs to implement the amendment to this administrative regulation.
(b) On a continuing basis: The amendment to this administrative regulation is estimated to cost $210,000 per year on a continuing basis.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Local health departments are funded through a mix of revenue received through fees, local tax dollars, federal grant dollars, and additional funds received from the state.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees and funding is not needed to implement the amendment to this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees contained in this administrative regulation.
(10) TIERING: Is tiering applied? Tiering is not applied as the provisions of this amended administrative regulation are equally applied to all regulated entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 211.1755(2)
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Division of Administration and Financial Management in the Department for Public Health, Cabinet for Health and Family Services is the promulgating agency.
(a) Estimate the following for the first year:
Expenditures: The amendment to this administrative regulation will not impact expenditures for the promulgating agency.
Revenues: The amendment to this administrative regulation does not generate revenue.
Cost Savings: The amendment to this administrative regulation will not result in cost savings for the promulgating agency.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no changes to expenditures, revenues, or cost savings in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities include fifty-eight (58) local health departments.
(a) Estimate the following for the first year:
Expenditures: Expenditures to the individual local health department will be minimal and dependent on the number of employees who promote into a new position. Collectively, the expenditures for the fifty-eight (58) local health departments is $210,000.
Revenues: The amendment to this administrative regulation does not generate revenue for the affected local entities.
Cost Savings: The amendment to this administrative regulation does not result in cost savings for the affected local entities.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures in subsequent years will be dependent on the staffing at the individual local health department. Revenues and cost savings will not change in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3): There are no additional regulated entities.
(a) Estimate the following for the first year:
Expenditures: Not applicable.
Revenues: Not applicable.
Cost Savings: Not applicable.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: The fiscal impact of this administrative regulation will be minimal for the individual local health department. Collectively, the system will have approximately $210,000 in expenditures on an ongoing basis.
(b) Methodology and resources used to determine the fiscal impact: In 2024, approximately seventy-five (75) local health department staff were promoted. Those individuals received a three percent increase at the time of their promotion. The amendment to this administrative regulation will result in local health department staff who promote receiving a five percent pay increase. The average salary of a local health department employee is $56,000 per year. A five percent pay increase is $2,800. 75X$2,800=$210,000.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The amendment to this administrative regulation will not result in an overall negative or adverse major economic impact.
(b) The methodology and resources used to reach this conclusion: While collectively the amendment to this administrative regulation may result in an increase in expenditures of $210,000, no single local health department will have expenditures that equal or exceed this amount.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management
(Amendment)

902 KAR 8:070. Recruitment, examination, and certification of eligible applicants for local health departments.

RELATES TO: KRS 61.872, 211.170(1), (2), 211.1751, 212.170, 212.870
STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755(2)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.1755(2) requires the cabinet to promulgate administrative regulations that establish policies and procedures for the personnel

program for local health departments. This administrative regulation establishes a recruitment program, procedures, and standards for the recruitment, examination, and certification of individuals for potential employment by local health departments.

Section 1. Announcement of a Vacant Position.

(1) An agency, prior to announcing a specific vacancy, shall determine whether to recruit for a vacant position on a scheduled basis or on a continuous basis for positions that are difficult to recruit and fill with qualified applicants.

(2) Except as provided by 902 KAR 8:090, Sections 1 and 2, and 902 KAR 8:080, Section 3, an agency desiring to fill a vacant position shall announce the vacant position in the following manner:

(a) Provide notice of the vacant position within the agency in a manner that affords the ability of current employees to know of the vacancy and procedures for submitting an application;

(b) Provide notice of the vacant position through recruitment resources that are external to the agency; or

(c) A combination of paragraphs (a) and (b) of this subsection.

(3) An announcement shall contain the following information:

(a) The conditions under which an application for potential employment will be received;

(b) The assessment method utilized to select the individual, which may include an interview or demonstration of skills and abilities;

(c) The title and minimum salary or approved salary range of the class of position;

(d) [~~The rates of pay at which appointments are expected to be made;~~]

[~~(e)~~] A general statement of the duties to be performed;

(e)[~~(f)~~] The minimum qualifications of education, training, and experience required as stated in the classification plan;

(f)[~~(g)~~] The date, if required, on which an application is to be received in the agency; and

(g)[~~(h)~~] If an agency requires pre-employment drug testing, criminal records information, physical examination, or other special conditions, a statement that they shall be required upon an offer of employment.

(4) The notice of the external recruitment effort shall meet the criteria of subsection (3) of this section and shall be distributed to one (1) or more of the following advertising methods:

(a) Newspapers;

(b) Web site;

(c) Other media viewable by the public;

(d) Employment services offices;

(e) Educational institutions;

(f) Professional and vocational societies; or

(g) Other media, individuals, and organizations as appropriate.

Section 2. Application for Employment Submittal and Review Process.

(1) The agency shall be the custodian of applications.

(2) An applicant shall apply for employment electronically at https://chfs.wd12.myworkdayjobs.com/CHFS[~~Until July 1, 2020, an Application for Employment, form CH-36, shall be required of an individual seeking employment with an agency.~~]

[~~(3)~~] [~~Effective July 1, 2020, all applications for employment shall be submitted electronically via https://kog.chfs.ky.gov/home/ and form CH-36 shall not be accepted~~].

Section 3. Review of Applications by the Department.

(1) The department shall review and determine the eligibility of an applicant for a position announced by an agency.

(2)

(a) The department shall take one (1) or more of the actions listed in paragraph (b) of this subsection if an applicant, eligible, or appointee:

1. Lacks a specific requirement established for the assessment for the class or position;

2. Is unable to perform the duties of the class;

3. Makes a false statement or misrepresentation in the application;

4. Has used or attempted to use political pressure or bribery to secure an advantage in obtaining the position in the examination or appointment;

5. Has directly or indirectly obtained information regarding the assessment method to which the applicant was not entitled;

6. Has failed to submit a complete application;

7. Has failed to submit the application by the end date established by the agency in a published announcement;

8. Has taken part in the compilation or administration of the interview process;

9. Has submitted an application for an unadvertised position to an agency that is not on continuous open recruitment; or

10. Has failed a background check or drug screen.

(b) Based on one (1) or more of the reasons listed in paragraph (a) of this subsection, the department shall take any of the following actions:

1. Refuse to examine an applicant;

2. Not qualify an applicant;

3. Remove the applicant's name from a register;

4. Refuse to certify an eligible on a register; or

5. Consult with the appointing authority in taking steps to remove a person already appointed.

(3) An applicant or employee who has been convicted of a misdemeanor or felony may be employed, or continue employment, if the appointing authority and the department determine after review that:

(a) The applicant is highly qualified and eligible for appointment;

(b) The misdemeanor or felony conviction will not adversely affect the applicant's job performance;

(c) A specific need exists for the appointment or continuing appointment of this applicant or employee; and

(d) Every determination made is fully supported by written documentation available for public inspection under the provisions of KRS 61.872.

(4) A disqualified applicant shall be promptly notified of the action in writing.

Section 4. Establishment of Registers of Eligible Applicants.

(1) An agency may announce a position on a continuous basis for a position that is difficult to recruit for and fill.

(2) A qualified[~~If a job classification requires an applicant to meet the minimum qualifications,~~][~~an~~] individual may[~~shall~~] remain on the register for a period not to exceed six (6) months[~~of one (1) year~~] from the date [~~on which~~]the individual is determined qualified.

(3) If a vacancy exists in a class of positions for which there is no appropriate register, the department may certify a new register for the class from a previous existing register.

(4) [~~A register may be deemed to be exhausted by the department if fewer than five (5) eligible applicants remain on the register.~~]

[~~(5)~~] The department may remove the name of an eligible from a register:

(a) For a disqualifying cause stipulated in Section 3(2)(a) of this administrative regulation;

(b) On receipt of a statement from the eligible stating that he or she no longer desires consideration for a position;

(c) If an offer of a probationary appointment to the class for which the register was established has been declined by the eligible;

(d) If the eligible declines an offer of appointment for which the eligible previously indicated acceptance;

(e) If the eligible fails to report for a scheduled interview without valid reason; or

(f) If an eligible has [~~been certified three (3) times to a valid register and has~~]not been offered employment within six (6) months[~~one (1) year~~] of the application.

(5)[~~(6)~~] If an eligible receives a probationary appointment, the eligible shall be removed from the applicable register unless otherwise requested in writing.

Section 5. Issuance of Certification of Eligible Applicants.

(1) The department shall issue a certification of eligible applicants to an agency in the following manner:

(a) A promotional certification of eligible applicants that responded to an announcement provided within an agency;

(b) A regular certification of eligible applicants that responded to an announcement provided to recruitment resources external to the agency; or

(c) A combination of paragraphs (a) and (b) of this subsection.

(2) The certification of eligible applicants shall expire sixty (60) days from the date of issue unless otherwise specified on the certification of eligible applicants.

(3) A regular status employee, placed in a layoff category, shall be considered in filling a vacancy in a classified position for which the employee is qualified in the agency from which the employee was laid off, for up to one (1) year.

(4) A regular status employee in the layoff category shall indicate in writing to the agency that he or she desires[~~desire~~] reemployment.

(5) If a laid-off regular status employee desires reemployment in a different job classification, the employee shall meet the minimum requirements of the classification.

Section 6. Assessment Method.

(1) An assessment method shall be practical in nature, constructed to reveal the capacity of the applicant for the particular position, as well as general background and related knowledge. An assessment method may be:

(a) A personal interview;

(b) Physical examination;

(c) An evaluation of experience and training;

(d) A demonstration of skill; or

(e) A combination of types, if all applicants for a position are given the same assessment method.

(2) An agency may form an interview committee to evaluate an eligible applicant through a structured interview process.

(3) The interview committee shall structure questions to assess the knowledge, skills, abilities, education, and work experience of the applicants chosen to be interviewed.

(4) The interview questions, criteria for selecting applicants to be interviewed, profiles of interviewed applicants, and results of the interview process shall be maintained by the agency for a period of thirteen (13) months after an applicant has been appointed to the vacant position.

[~~Section 7.~~] [~~Incorporation by Reference.~~]

[~~(1)~~] [~~"Form CH-36 Application for Employment", 2/2011, Cabinet for Health and Family Services, is incorporated by reference.~~]

[~~(2)~~] [~~Until July 1, 2020, this material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, Division of Administration and Financial Management, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.~~]

JOHN R. LANGEFELD, MD, Commissioner
STEVEN J. STACK, MD, MBA, Secretary

APPROVED BY AGENCY: October 5, 2025

FILED WITH LRC: January 7, 2025 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks and Krista Quarles
Subject Headings: Local Health Departments; Personnel; Public Health

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a recruitment program, procedures, and standards for the recruitment, examination, and certification of individuals for potential employment by local health departments.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure consistent recruitment, certification, and examination procedures are applied across all local health departments.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.1755 authorizes the cabinet to promulgate administrative regulations that establish policies and procedures for recruitment of applicants, the determination of eligibility of applicants, the appropriate examination for applicants, and the provision of a list of qualified individuals for employment with an agency.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all local health departments follow consistent policies and procedures related to recruitment and retention of employees.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation updates the application to an electronic process, deletes the material incorporated by reference as this material is no longer required, and revises the register of eligible applicant requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary because the local health department personnel program has moved to an electronic system for advertising open positions and for submission of applications for employment.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.1755 authorizes the cabinet to promulgate administrative regulations that establish policies and procedures for recruitment of applicants, the determination of eligibility of applicants, the appropriate examination for applicants, and the provision of a list of qualified individuals for employment with an agency.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation ensures all local health departments follow consistent policies and procedures related to recruitment and retention of employees.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment to this administrative regulation will impact individuals seeking employment at fifty-eight (58) local health departments.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Individuals seeking employment with an impacted local health department will need to be aware of the changes to the application process.

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

amendment to this administrative regulation will not result in a cost to the identified regulated entities.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Local health departments will be more competitive in their ability to attract and retain a qualified workforce.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: This is an ongoing program, there are no initial costs to implement the requirements of the amended administrative regulation.
(b) On a continuing basis: The amendment to this administrative regulation does not impact costs.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Local health departments are funded through a mix of revenue received through fees, local tax dollars, federal grant dollars, and additional funds received from the state.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees and funding is not needed to implement the amendment to this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees contained in this administrative regulation.
(10) TIERING: Is tiering applied? Tiering is not applied as the requirements of this administrative regulation are equally applied to all regulated entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050 and 211.1755.
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Division of Administration and Financial Management in the Department for Public Health, Cabinet for Health and Family Services is the promulgating agency.
(a) Estimate the following for the first year:
Expenditures: The amendment to this administrative regulation does not impact the expenditures for the promulgating agency.
Revenues: The amendment to this administrative regulation does not generate revenue for the promulgating agency.
Cost Savings: The amendment to this administrative regulation will result in minimal cost savings for the promulgating agency.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities are fifty-eight (58) local health departments.
(a) Estimate the following for the first year:
Expenditures: The amendment to this administrative regulation will not result in expenditures for affected local entities.
Revenues: The amendment to this administrative regulation does not generate revenue for the affected local entities.
Cost Savings: The amendment to this administrative regulation does not result in cost savings for the affected local entities.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change to expenditures, revenues, and cost savings in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3): There are no additional regulated entities.
(a) Estimate the following for the first year:
Expenditures: Not applicable.
Revenues: Not applicable.
Cost Savings: Not applicable.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: The amendment to this administrative regulation does not have a fiscal impact on either the promulgating agency or the affected local entities.
(b) Methodology and resources used to determine the fiscal impact: Not applicable.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The amendment to this administrative regulation does not have an overall negative or adverse major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management
(Amendment)

902 KAR 8:080. Initial appointment, probationary period, layoffs, performance evaluation, and the resignation of employees of local health departments.

RELATES TO: KRS 211.170(1), (2), 212.040, 212.850, 212.870
STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755(2)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.1755(2) requires the cabinet to promulgate administrative regulations establishing the policies and procedures for the local health department personnel program. This administrative regulation establishes employment categories of permissible appointments, employment probationary periods, and an employee evaluation process.

Section 1. Initial Appointments.
(1) The appointing authority of a local health department shall make an initial appointment of an eligible applicant from a certification of eligible applicants issued by the department.
(2) The reemployment of a person shall be an initial appointment if the person:
(a) Was formerly employed by an agency; and
(b) Is receiving retirement benefits from the:
1. Kentucky Public Pensions Authority[~~Employee Retirement System~~]; or
2. Kentucky Teachers Retirement System.

Section 2. Provisional Appointments.
(1) If there is an urgent reason for filling a position and no appropriate register exists, the appointing authority may submit to the department the name of a person to fill the position pending establishment of a register. If the person's qualifications have been certified by the department as meeting the minimum qualifications, the person may be provisionally appointed to fill the existing vacancy.
(2) A provisional appointment shall not:
(a) Be made until the position has been classified and minimum qualifications established for the class of position; and
(b) Exceed thirteen (13) pay periods from the date of appointment.
(3) Successive provisional appointments of the same person shall not be permitted.
(4) Provisional service immediately prior to initial appointment may be credited, at the request of the appointing authority, toward the required probationary period.

Section 3. Reinstatement.

(1)

(a) For a period of time not to exceed thirty-six (36) months since termination of employment from an agency, a regular-status employee who [~~has~~] resigned [~~while~~] in good standing, or separated without prejudice, may be eligible for reinstatement to the same position or in a corresponding position within the agency, with the same seniority rights and leave status.

(b) The individual being considered for reinstatement shall be certified by the department as meeting the current minimum qualifications.

(c) The individual being considered for reinstatement shall not be required to serve an initial probationary period if the employee has had a break in service of not more than twelve (12) months.

(d) The accumulated balance of sick leave earned during prior employment with the agency shall be reinstated upon employment and the period of time of prior employment with the agency shall be used to determine the rate at which the employee earns annual leave.

(2)

(a) If the employee has had a break in service of more than twelve (12) months, and the break in service does not exceed thirty-six (36) months, the employee shall serve an initial probationary period and be eligible to receive a probationary increment based on satisfactory performance.

(b) If the employee satisfactorily completes the initial probationary period, the accumulated balance of sick leave earned during prior employment with the agency shall be reinstated and the period of time of prior employment with the agency shall be used to determine the rate at which the employee earns annual leave.

(3) The annual increment date shall be twenty-six (26) pay periods from the effective date of reinstatement.

Section 4. Emergency Appointments.

(1)

(a) If an emergency exists that requires the immediate services of one (1) or more persons and it is not possible to secure a person from an appropriate register, or there is no person qualified for a provisional appointment, the appointing authority may appoint a person with the approval of the department.

(b) An emergency appointment shall not exceed seven (7) pay periods in duration and shall not be renewable.

(c) The department may make investigations as necessary to determine if an emergency exists.

(2) The appointing authority shall report an emergency appointment to the department, providing the name of the appointee, rate of pay, length of employment, nature of emergency, and duties to be performed. Separation from service of an emergency appointee shall also be reported.

(3) An emergency appointment shall not confer upon the incumbent a privilege or right to promotion, transfer, salary adjustment, or reinstatement to a position under the merit system.

(4) An individual appointed to an emergency position shall be considered in the unclassified service and continued employment shall be subject to the current employment needs of the agency.

Section 5. Temporary Appointment.

(1) The appointing authority may, with the approval of the department, establish a position on a temporary basis for up to nineteen (19) pay periods to accommodate the following:

(a) Increased work activity of a seasonal nature;

(b) Work study or job training programs;

(c) Special projects; or

(d) Summer employment.

(2) An applicant shall not be appointed to a temporary position unless the applicant meets established minimum requirements.

(3) Continuous appointments to the same temporary position shall not be made.

(4) The period of temporary service shall not constitute a part of the initial employment probationary period.

(5) An individual appointed to a temporary position shall be considered in the unclassified service and continued employment shall be subject to the current employment needs of the agency.

Section 6. Appointment of an Individual to a Variable Hour Position.

(1) An agency, because of special working requirements in meeting programmatic service needs, may establish a position having variable hours of work.

(2) An agency may appoint to a variable hour position an individual who meets the minimum requirements of education and experience established for the position.

(3) The hours of work of the individual shall not exceed 800 hours per year.

(4) An individual appointed to the variable hour position shall be considered in the unclassified service and continued employment shall be subject to the current employment needs of the agency.

(5) The compensation of the individual employed shall be determined by the appointing authority.

[~~(6)~~] [~~The individual employed shall not be eligible for salary adjustments.~~]

Section 7. Partial year Appointment.

(1) An agency may establish a partial year position to accommodate foreseeable seasonal fluctuations in staffing, budgetary, operational, programmatic, or other needs.

(2) An employee in a designated partial year position shall receive the following agency provided benefits:

(a) Health and life insurance benefits provided by the agency for full-time and part-time 100-hour employees;

(b) Sick and annual leave, in accordance with 902 KAR 8:120, Sections 2 and 4, for pay periods the employee actually works;

(c) Enrollment in the Kentucky Employee Retirement System and receipt of appropriate service credit for those pay periods of actual work; and

(d) Service credit for computation of seniority for those pay periods the employee has actually worked.

(3) The employee in a designated partial year position shall be considered a regular-status employee following completion of the initial probationary period in accordance with Section 9 of this administrative regulation.

(4) The employee in a designated partial year position shall:

(a) Work the required number of hours, unless the employee is absent due to illness or needing to provide care for an immediate family member; and

(b) Work at the request of the agency during periods of nonwork to cover during coworker periods of illness, vacation schedules, and other periods of agency demand.

Section 8. Performance Evaluation.

(1) Effective July 1, 2030, all local health departments shall use the performance evaluation system provided in 902 KAR 8:096.[~~Except as provided in 902 KAR 8:096, the appointing authority, or designated supervisory staff, shall conduct a performance appraisal pursuant to this administrative regulation using the Employee Performance Appraisal, form CH-40 for a:~~]

(2) Between the effective date of this administrative regulation and July 1, 2030, the appointing authority, or designated supervisory staff shall conduct a performance appraisal pursuant to this administrative regulation.

(a) Regular status employee on an annual basis; and

(b) Probationary employee prior to completion of the required probationary period.

(3)[~~(2)~~] An employee who receives a rating of "meets requirements", "exceeds requirements", or "outstanding", shall receive the Board of Health approved annual increment not to exceed five (5) percent of the employee's salary.

(4)[~~(3)~~] An overall rating of "below requirements" or "inadequate" shall require that a new rating of the employee be made within ninety (90) days.

(a) If the employee performance has improved, the appointing authority shall approve the annual increment as approved by the Board of Health.

(b) If employee has not improved or performance deteriorates, the appointing authority shall initiate a disciplinary action.

(c) An employee shall be notified by the appointing authority in writing at least fourteen (14) days prior to the annual increment date if the employee:

1. Is denied an annual increment; or

2. Only receives a portion of the annual increment.

(5)[(4)] Performance evaluations shall be considered in determining:

(a) An annual and probationary salary advancement;

(b) Requesting and approving a:

1. Promotion;

2. Demotion; or

3. Dismissal; and

(c) The order of separation due to a reduction of work force.

(6)[(5)] Each agency shall elect, by Board of Health vote, to participate in one (1) of the following employee performance evaluation programs:

(a) The current employee performance evaluation described in this section; or

(b) The evaluation program described in 902 KAR 8:096.

(7) Until July 1, 2030, an agency utilizing the evaluation process outline in this section may

[(6)]

[(a)] [An agency choosing the current employee evaluation program described in this section shall notify the department at the beginning of the new fiscal year.]

[(b)] [The agency shall] remain under [the requirements of]this section, unless the agency, by vote of the Board of Health, elects to participate in the provisions of 902 KAR 8:096 at the beginning of a subsequent fiscal year.

(8) Prior to July 1, 2030

[(c)] [An agency choosing the current employee evaluation program, as described in this section, shall not be subject to any provision of 902 KAR 8:096.]

[(7)] an agency, by vote of the Board of Health, that elects to participate in the employee evaluation program of 902 KAR 8:096, shall notify the department at the beginning of the new fiscal year. [The agency electing to participate under 902 KAR 8:096 shall not convert to another employee evaluation program.]

Section 9. Initial Probationary Period.

(1) An employee shall be required to serve a probationary period upon initial employment.

(2) The initial probationary period shall be thirteen (13) pay periods except as provided in subsection (7) of this section.

(3) If the employee has satisfactorily completed the initial probationary period based on a performance evaluation, the appointing authority shall notify the department seven (7)[fourteen][(14)] days prior to the expiration of the initial probationary period that regular status has been confirmed.

(4) An employee may be separated from his position during the initial probationary period and shall not have the right to appeal except as provided by 902 KAR 8:110, Section 1(3).

(5)

(a) Except as provided by paragraph (b) of this subsection, if an employee is to be dismissed during the initial probationary period, the employee shall be notified in writing at least seven (7) calendar days prior to the effective date of dismissal and prior to the expiration of the probationary period.

(b) If the employee commits a serious infraction of agency policy as defined by 902 KAR 8:100, Section 4, the employee shall be dismissed in writing immediately without pay.

[(c)] [The dismissed employee shall not be placed on a register.]

(6) Unless the appointing authority notifies the employee in writing seven (7) calendar days prior to the end of the initial probationary period that the employee is separated, the employee shall be deemed to have served satisfactorily and shall acquire regular status in the classified service.

(7) The initial probationary period may be extended[, by informing the employee in writing,] for one (1) of the following reasons:

(a) For the same length of time as leave granted to cover an absence due to medical reasons causing the employee to be absent from work for twenty (20) days or more during the probationary period;

(b) If the employee, acting with due diligence, has been unable to complete a required job related training course during the probationary period; or

(c) The appointing authority may require an initial probationary period in excess of thirteen (13) pay periods, not to exceed a total probationary period of twenty-six (26) pay periods, for determination of competency.

(8) An employee whose initial probationary period is extended in accordance with subsection (7) of this section shall be notified of the extension a minimum of seven (7) calendar days prior to the initial probationary period end date.

(9) The employee serving a probationary period may be eligible for promotion to a position in a higher class. If an employee is promoted during a probationary period, the new probationary period shall begin with the date the employee was promoted.

Section 10. Resignations.

(1) An employee who terminates[desires to terminate] service with an agency shall submit a written resignation or notice of retirement to the appointing authority.

(2) The written resignation or notice of retirement[A resignation] shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's written resignation or notice of retirement shall be filed in the employee's personnel file.

(3) An employee's lump sum payment for accumulated annual leave may be held by an agency until the employee who has resigned, retired, or been dismissed, returns agency credit cards, keys to buildings and automobiles, or other agency property in the possession of the employee.

Section 11. Voluntary and Involuntary Furlough.

(1) An agency may implement a voluntary or involuntary furlough program as part of a layoff plan established in Section 12 of this administrative regulation.

(2) A voluntary or involuntary furlough shall be considered a temporary non disciplinary leave without pay, for a specified period of time if major organizational program and funding changes occur that may result in work reductions of one (1) or more employees of an agency.

(3) A furlough may apply to the entire agency, certain organizational units of the agency, or to one (1) or more employees as the need arises.

(4) A furlough may be for periods of up to twenty-two (22) working days per fiscal year. The furlough may be designated as one (1) continuous period of twenty-two (22) working days or may be discontinuous days or periods, including portions of days.

(5) Employees shall not be paid for days while on furlough. If the furlough is for a continuous period:

(a) An employee's benefits shall not be adversely affected except for the following:

1. Retirement contributions shall be based on actual earnings;

2. Holidays that occur during a consecutive furlough period shall not be paid;

3. Annual leave, compensatory time, and sick leave shall not be used; and

4. Medical, dental, life insurance, and flexible spending accounts shall continue to be in effect upon payment of required contributions by the employee; and

(b) Accrual of annual and sick leave, anniversary dates, and seniority shall be treated as if the employee is in pay status for the duration of the furlough.

(6) An employee who is interested in being placed in a voluntary furlough status shall request prior approval from the appointing authority. The request shall include the reason for and the manner in which the employee proposes to use the furlough period that may include:

(a) Shorter work days;

(b) Intermittent days off; or

(c) Consecutive days off.

(7) An appointing authority may direct an employee to be placed in a furlough status instead of a layoff status. The written notice of the required furlough shall:

(a) Be received at least fifteen (15) calendar days prior to the beginning date of furlough;

(b) Include the period of the furlough and if the furlough is continuous or non-continuous;

(c) Include the status of employee benefits; and

(d) State that failure to return to work after the completion of the mandatory furlough may be grounds for disciplinary action, up to and including dismissal from employment.

Section 12. Layoffs.

(1) An agency shall have a Board of Health approved workforce reduction plan on file with the department to lay off an employee in the classified service if necessary because of:

(a) Curtailment of work;

(b) Shortage of funds;

(c) Abolishment of a position;

(d) Modification of service requirements; or

(e) Other material change in the duties or organization of the agency.

(2)

(a) Prior to the notification of an employee that he or she is subject to layoff and prior to the layoff of an employee, the appointing authority shall submit a layoff plan to the department for approval.

(b) The plan shall contain the names of the employees, months of service, and the reasons, in detail, for the layoff and criteria used to select those employees subject to layoff.

(c) Upon written approval of the plan by the department, the employee shall be notified that the employee is subject to layoff and of the:

1. Reason for the layoff;

2. Procedures established for the layoff of employees; and

3. Rights granted employees subject to layoff.

(3) An agency established under KRS 212.040 shall undertake the following procedures in assisting an employee subject to layoff:

(a) An employee subject to layoff shall be transferred to a vacant position of the same pay grade, level of duties, and responsibilities for which the employee is qualified within the agency.

(b) If a vacancy does not exist for a position of the same pay grade, level of duties, and responsibilities for which the employee is qualified within the agency, the employee shall be notified of all vacant positions within the agency for which the employee is qualified.

(c) The employee shall have the right to be appointed to a vacant position within the agency for which the employee is qualified before another applicant or eligible on a register.

(d) If no position is available to an employee subject to layoff, the employee shall be notified in writing:

1. That the employee is to be laid off effective at least fifteen (15) calendar days after receipt of the notice; and

2. Of the rights and privileges granted laid-off employees.

(4) An agency established under KRS 212.850 shall undertake the following procedures in assisting an employee subject to layoff:

(a) An employee subject to layoff shall be transferred to a vacant position of the same pay grade, level of duties and responsibilities for which the employee is qualified within the agency. The position shall be located in the same county as the position from which the employee is subject to layoff;

(b) If a vacancy does not exist for a position of the same pay grade, level of duties, and responsibilities for which the employee is qualified within the same county as the position from which the employee is subject to layoff, the employee shall be transferred to a vacant position within the agency for which the employee is qualified. The position shall be located in the same county as the position from which the employee is subject to layoff;

(c)

1. If a position is not available, the employee shall be notified of all vacant positions within the agency for which the employee is qualified.

2. The employee shall have the right to be appointed to a vacant position within the agency for which the employee is qualified.

3. The employee shall have the right to be appointed to a vacant position within the agency for which the employee is qualified before another applicant or eligible on a register; and

(d) If no position is available to an employee subject to layoff, the employee shall be notified in writing:

1. That the employee is to be laid off effective at least fifteen (15) calendar days after receipt of the notice; and

2. Of the rights and privileges granted laid-off employees.

(5) In the same agency, county and job classification, provisional, temporary, emergency, and probationary employees shall be laid off before regular full-time or regular part-time employees with status. An employee serving a promotional probation shall not be considered a probationary employee for purposes of layoff.

(6) If two (2) or more employees subject to layoff in a layoff plan submitted to the department have the same qualifications, the employee with the lesser seniority shall be laid off first.

(7) An employee who is laid off, upon written request, shall be considered for the class of position from which the employee was laid off and for any class for which the employee is qualified.

(8) For a period of one (1) year, a laid-off employee shall be given priority consideration by the agency before another applicant or eligible except another laid-off employee with greater seniority.

(9) For a period of one (1) year, a laid-off employee shall not be removed from a register unless the employee:

(a) Notifies the agency in writing that the employee no longer desires consideration for a position on a register;

(b) Declines two (2) written offers of appointment to a position of the same classification and salary, and located in the same county or agency, as the position from which the employee was laid off;

(c) Without good cause, fails to report for an interview after being notified in writing at least ten (10) calendar days prior to the date of the interview;

(d) Is unable to perform the duties of the class;

(e) Has been convicted of a job related misdemeanor; or

(f) Cannot be located by postal authorities at the last address provided by the laid-off employee.

[~~Section 13.~~] [~~Incorporation by Reference.~~]

[~~(1)~~] [~~" Employee Performance Appraisal", CH-40, 4/93, is incorporated by reference.~~]

[~~(2)~~] [~~This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department for Public Health, Division of Administration and Financial Management, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.~~]

JOHN R. LANGEFELD, MD, Commissioner
STEVEN J. STACK, MD, MBA, Secretary

APPROVED BY AGENCY: October 5, 2025

FILED WITH LRC: January 7, 2025 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks and Krista Quarles
Subject Headings: Local Health Departments; Personnel; Public Health
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes employment categories of permissible appointments, employment probationary periods, and an employee evaluation process for local health departments.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure consistent employment appointments, employment probationary periods, and employee evaluation procedures are equally applied across all local health departments.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.1755 authorizes the cabinet to promulgate administrative regulations for personnel policies, based on a merit system, to include the conditions of employment and an employee evaluation system.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all local health departments follow consistent policies and procedures related to employee appointments, probationary periods, and evaluation processes.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation removes the prohibition for a variable hour employee to receive a salary adjustment, updates the employee performance evaluation process, clarifies the timeline for notifying an employee whose probationary period will be extended, clarifies that termination by the employee can either be through resignation or notice of retirement, and deletes the material incorporated by reference as this material is no longer required.
(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary because the local health department personnel program has moved to an electronic system for documenting employee performance evaluations.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.1755 authorizes the cabinet to promulgate administrative regulations for personnel policies, based on a merit system, to include the conditions of employment and an employee evaluation system.
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation ensures all local health departments follow consistent policies and procedures related to employee performance evaluation processes.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment to this administrative regulation will impact individuals seeking employment at fifty-eight (58) local health departments.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Local health departments will need to be aware of the revised employee performance evaluation process.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no costs to local health departments for compliance with this administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Local health departments will have a more streamlined employee performance evaluation process.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: This is an ongoing program, there are no initial cost.
(b) On a continuing basis: The amendment to this administrative regulation will not impact continuing costs.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Local health departments are funded through a mix of revenue received through fees, local tax dollars, federal grant dollars, and additional funds received from the state.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees and funding is not needed to implement the amendment to this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees contained in this administrative regulation.
(10) TIERING: Is tiering applied? Tiering is not applied as the requirements of this administrative regulation are applied equally to all regulated entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 211.1755(2)
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Division of Administration and Financial Management in the Department for Public Health, Cabinet for Health and Family Services is the promulgating agency.
(a) Estimate the following for the first year:
Expenditures: This administrative regulation will not change expenditures.
Revenues: This administrative regulation does not generate revenue.
Cost Savings: This administrative regulation does not result in cost savings.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities include fifty-eight (58) local health departments.
(a) Estimate the following for the first year:
Expenditures: This administrative regulation will not impact expenditures for the affected local entities.
Revenues: This administrative regulation does not generate revenue.
Cost Savings: This administrative regulation does not result in cost savings.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3): There are not additional regulated entities.
(a) Estimate the following for the first year:
Expenditures: Not applicable.
Revenues: Not applicable.
Cost Savings: Not applicable.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: This administrative regulation will have no fiscal impact.
(b) Methodology and resources used to determine the fiscal impact: The amendment to this administrative regulation updates the local health department employee evaluation system. This change has no fiscal impact on local health departments.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in

questions (2) - (4). ($500,000 or more, in aggregate) The amendment to this administrative regulation will not have an overall negative or adverse major economic impact.
(b) The methodology and resources used to reach this conclusion: The amendment to this administrative regulation updates the local health department employee performance evaluation system and deletes outdated material incorporated by reference.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management
(Amendment)

902 KAR 8:096. Local health department employee performance evaluation program.

RELATES TO: KRS 211.090(2)[~~(3)~~], 211.170(1), 211.1751, 212.170(4), 212.870, 38 U.S.C 4301-4335
STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755(2)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.1755(2) requires the cabinet to promulgate administrative regulations establishing the policies and procedures of the personnel program for local health departments. This administrative regulation establishes the requirements and [~~the~~] procedures for the evaluation of local health department employee performance.

Section 1.
(1) Upon Board of Health approval, each agency shall elect to participate in one (1) of the following employee performance evaluation programs:
(a) The evaluation program described in 902 KAR 8:080, Section 8, effective until July 1, 2030; or
(b) The evaluation program described in this administrative regulation.
(2) Between the effective date of this administrative regulation and July 1, 2030;
(a) An agency electing to participate in the employee evaluation program pursuant to this administrative regulation shall notify the department prior to the start of each fiscal year; and
(b) [~~.~~]
[~~(3)~~] An agency electing to participate in the employee evaluation program pursuant to 902 KAR 8:080, Section 8, shall:
1.[~~(a)~~] Notify the department prior to the start of each fiscal year;
2.[~~(b)~~] Remain under the requirements of that administrative regulation unless the agency elects to participate in the provision of this administrative regulation at the start of a subsequent fiscal year; and
3.[~~(c)~~] Not be subject to any provisions of this administrative regulation.
(3) Effective July 1, 2030, all employee performance evaluation programs shall be in accordance with this administrative regulation.
(4) The department shall provide technical assistance and training for appropriate local health department supervisory employees if requested by the agency and upon notification of the board's approval.

Section 2. Purpose of the Employee Performance Evaluation Program.
(1) The purpose of the employee performance evaluation program shall be to establish a uniform process for the evaluation of an employee's performance during a specified period of time.
(2) Specific objectives of the program shall include the following:
(a) Increase the efficiency of the agency and employee through the annual planning of job duties, objectives, and performance characteristics, and assisting the employee to improve performance through prior knowledge of the expectations of the supervisor;
(b) Serve as a medium which brings the supervisor and employee together for constructive performance discussion and written documentation;
(c) Serve as a means to determine the level at which an employee is performing;
(d) Recognize performance that meets and exceeds performance standards;
(e) Identify and correct substandard performance;
(f) Assist in determining and recording special talents, skills, and capabilities that might otherwise not be noticed or recognized;
(g) Ensure understanding of duties and standards expected of the employee;
(h) Provide assistance in assigning work and delegating responsibility based on a mutual understanding of the employee's skills and abilities;
(i) Encourage the continued growth and development of employees; and
(j) Serve as a basis to review the employee's performance for granting work related salary adjustments.

Section 3. Designated Employee Performance Evaluations. Employee performance evaluations shall be completed at the following times:
(1) Prior to the completion of the required initial appointment probationary period established in 902 KAR 8:080, Section 9;
(2) At the annual employee performance evaluation in accordance with Section 4 of this administrative regulation;
(3) Prior to completion of the required probationary period following promotion established in 902 KAR 8:090, Section 1(3); or
(4) Following reinstatement of an employee that had a gap of service with an agency of more than one (1) year but does not exceed three (3) years from date of separation in accordance with 902 KAR 8:080, Section 3(2)[~~; or~~]
[~~(5)~~] [~~At a special performance evaluation required by Section 10 of this administrative regulation~~].

Section 4. Annual Employee Performance Evaluation.
(1) An employee that has gained regular status shall be evaluated by the appointing authority or designated supervisor on an annual basis.
(2)
(a) An employee's established annual increment date shall be the first day of the first pay period after completion of twenty-six (26) pay periods of service during which the employee earned annual and sick leave pursuant to 902 KAR 8:120.
(b) A designated part-time employee's established annual increment date shall be the first day of the first pay period upon completion of twenty-six (26) pay periods of service.
(3) An employee returning to duty from leave without pay shall receive an annual increment when the employee has completed twenty-six (26) pay periods of service since the date the employee last received an annual increment.
(4) An annual increment date shall not change when an employee:
(a) Is in a position that is assigned a new or different salary grade;
(b) Receives a salary adjustment as a result the employee's position being reallocated;
(c) Is transferred;
(d) Receives a demotion;
(e) Is approved for detail to special duty;
(f) Returns from military leave covered under the Employment and Reemployment Rights of Members of the Uniformed Services, 38 U.S.C. 4301 to 4335;
(g) Is reclassified; or
(h) Is promoted.

Section 5. Employee Performance Evaluation Process.

(1) The supervisor shall maintain a record throughout the evaluation period for each employee supervised.

(2) The record shall provide a chronological record of accomplishments or problems of an employee. The records shall include:

(a) Dates;

(b) Details;

(c) Names; and

(d) Any written statements regarding accomplishments or problems.

(3) The purpose of the record shall be to ensure that the evaluations are based on actual activities and performance during the review period and provide documentation necessary for the performance salary adjustment or indicated disciplinary actions necessary in the case of unacceptable performance.

(4) [~~A performance evaluation shall be completed for each regular status employee using the Local Health Department Employee Performance Evaluation form CH-40B.~~]

[~~(5)~~] [~~The CH-40B shall contain documented efforts made during the review period to correct unacceptable performance of the employee.~~]

[~~(6)~~] At the beginning of the review period, the supervisor shall identify and develop an annual, written performance plan that outlines for each employee supervised:

(a) The performance competencies;

(b) Expectations;

(c) Goals; and

(d) Objectives.

(5)[~~(7)~~] [~~A supervisor shall develop an annual, written performance plan for each employee supervised.~~]

[~~(8)~~] The supervisor and employee shall meet to discuss the identified performance competencies, expectations, goals, and objectives, and decide on an individual development plan to assist the employee in performing the job. The annual performance plan shall include:

(a) An annual performance plan period;

(b) Job-related performance competencies, goals, and objectives that are consistent with the employee's position description and relate to the agency's goals and performance competencies. Each performance competency shall describe:

1. Standards or indicators of success; and

2. Measurable results and time frames if applicable; and

(c) Provisions for a minimum of one (1) interim performance plan review during the plan year to discuss performance progress, any deficiencies, and plan updates as necessary.

(6)[~~(9)~~] The supervisor, at the end of the review period, shall rate the performance of an employee on the identified performance competencies, indicating both the level of work performed and examples of the employee's work supporting the rating given on each measure and the final rating the employee will receive.

(7)[~~(10)~~] The supervisor shall identify the performance competencies, goals, expectations, and objectives for the next plan year.

(8)[~~(11)~~] The results of the employee performance evaluation may be submitted to the second line supervisor, if other than the appointing authority, and the appointing authority prior to meeting with the employee.

(9)[~~(12)~~] The supervisor and the employee shall meet to discuss the supervisory ratings, performance competencies, goals, and expectations, objectives identified for the next review period, and the employee's development plan for the next review period. The employee shall have the opportunity to provide input, examples of work, and a self-evaluation for the supervisor's consideration.

(10)[~~(13)~~] The employee shall have an opportunity to provide[~~attach written~~] comments concerning the rating of the supervisor's evaluation. The comments shall be provided to the supervisor no later than five (5) working days after the supervisor and employee meet to discuss the performance evaluation.

(11)[~~(14)~~] An employee that disagrees with the performance rating conducted by the employee's supervisor may ask for a review with the second line supervisor or appointing authority. If the employee is not satisfied with the response, the employee may submit a grievance through the agency's grievance procedure.

Section 6. Employee Performance Evaluation Competencies.

(1) An employee shall be evaluated on at least the following performance competencies:

(a) Position knowledge;

(b) Communication;

(c) Concern for accuracy;

(d) Service orientation;

(e) Organizational awareness; and

(f) Performance orientation.

(2) A supervisor shall be evaluated on the following competencies in addition to those stated above:

(a) Staff development;

(b) Functional planning; and

(c) Decision making.

(3) In addition to the required competencies established in subsections (1) and (2) of this section, additional competencies may be added to the employee's or supervisor's evaluation that reflects the level of development of the employee, level of responsibility, degree of independence, complexity of duties, and the overall scope of the employee's job duties.

Section 7. Employee Evaluation Rating Factors. The following ratings shall be used by the supervisor to evaluate an employee's job performance for the competencies identified:

5	Highly Commendable Performance
4	Proficient and Commendable Performance
3	Effective and Competent Performance
2	Needs Development Performance
1	Unacceptable Performance

Section 8. Overall Performance Rating of the Employee. The supervisor shall provide an overall rating of the employee's performance based on the following levels of performance:

(1) Highly commendable performance rating level for the employee who:

(a) Consistently surpasses skill expectations in execution of the majority of critical job responsibilities and objectives;

(b) Makes exceptional contributions to the overall functioning of a department by demonstrating initiative, flexibility, and creativity in addressing issues or developing systems, procedures, or enhancements for greater efficiencies and effectiveness;

(c) Possesses superior skills and knowledge;

(d) Constantly anticipates or responds quickly to changing situations and departmental needs;

(e) Constantly contributes workable solutions to projects or problems;

(f) Demonstrates work of a superior quality; and

(g) Is a solution-oriented team player who maintains and promotes excellent working relationships.

(2) Proficient and commendable performance rating level for the employee who:

(a) Consistently demonstrates skill in the execution of the majority of critical job responsibilities and objectives;

(b) Makes important contributions to the overall functioning of a department by demonstrating solid performance with respect to productivity and quality;

(c) Possesses strong skills and knowledge; and

(d) Is an excellent team player who maintains and promotes good working relationships.

(3) Effective and competent performance rating level for the employee who:

(a) Competently executes the majority of critical job responsibilities and objectives;

(b) Makes positive contributions to the overall functioning of an agency by demonstrating sufficient performance with respect to productivity and quality of work;

(c) Possesses appropriate level of skills and knowledge;

(d) Maintains and promotes positive working relationships as a team player;

(e) Works positively to influence the work group; and

(f) Adjusts readily to changing situations and work assignments.

(4) Needs development performance rating level for the employee who:

(a) The overall performance to ensure consistent execution of all job responsibilities and objectives needs development;

(b) Demonstrates success in some areas but guidance in other areas has been needed; and

(c) Demonstrates performance competencies that need further development and consistent application.

(5) Unacceptable performance rating level for the employee whose overall performance indicates that:

(a) Job duties, responsibilities, and objectives have not been consistently met;

(b) Employee's performance requires close monitoring and has not kept pace with job related requirements; and

(c) Successes have been only occasional or of minimal impact and performance has failed to demonstrate sufficient level of competencies required.

Section 9. Salary or Annual Leave Adjustment for an Employee Based on the Levels of Performance.

(1) An employee who receives an overall rating at the highly commendable or proficient and commendable level, shall be eligible to receive:

(a) The annual increment rate adopted by the Board of Health at the beginning of the fiscal year not to exceed five (5) percent of the employee's salary; and

(b)

1. An additional lump sum payment that was adopted by the Board of Health at the beginning of the fiscal year not to exceed five (5) percent of the employee's salary if adequate documented justification is provided to the department for approval; or

2. An additional one (1) or two (2) days annual leave.

(c) The lump sum payment or annual leave adjustment shall be effective the same date as the annual increment awarded.

(2) An employee who receives a performance rating at the effective and competent level shall be eligible to receive the annual employee performance rate adopted by the Board of Health at the beginning of the fiscal year not to exceed five (5) percent of the employee's salary.

(3)

(a) An employee who receives a rating at the needs development level after appropriate supporting documentation has been made, shall be eligible to receive a salary adjustment equivalent to fifty (50) percent of the annual performance evaluation rate adopted by the Board of Health at the beginning of the fiscal year not to exceed five (5) percent of the employee's salary.

(b) An employee shall be notified by the appointing authority in writing at least seven (7) days prior to the annual increment date if the employee:

1. Is denied an annual increment; or

2. Only receives a portion of the annual increment.

(c) An appointing authority shall require a special evaluation to be conducted no later than 120 days following the annual evaluation to determine if the employee's level of performance has improved.

(d)[(c)] If the employee's performance has improved to the effective and competent level, the appointing authority shall approve the employee's receipt of the additional fifty (50) percent over the remainder of the evaluation period.

(e)[(d)] For the employee who shows no improvement in performance or whose performance deteriorates, the appointing authority shall:

1. Remove the [~~fifty (50) percent~~] salary increment allowed under paragraph (a) of this subsection; and

2. Initiate appropriate disciplinary action in accordance with 902 KAR 8:100.

(4)

(a) For an employee who receives a rating at the unacceptable level, the appointing authority shall not grant a salary increase except as provided in paragraph (d) of this subsection.

(b) The appointing authority shall initiate dismissal action if indicated by supporting documentation.

(c) If the supporting documentation does not indicate a dismissal action, the appointing authority shall initiate appropriate disciplinary action followed by a performance re-evaluation to be completed no later than 120 days after the disciplinary action was initiated.

(d) The appointing authority shall provide the employee a salary adjustment equivalent to fifty (50) percent of the annual performance evaluation rate at the needs development performance level if an employee improves the level of performance and satisfactorily meets the performance improvement objectives as determined by the re-evaluation.

(5) The employee performance salary adjustment shall be given to the eligible employee at the beginning of the first pay period following twenty-six (26) pay periods of service during which the employee was in pay status.

[~~(6)~~] [~~An employee whose annual increment is denied shall be notified by the appointing authority in writing at least fourteen (14) calendar days prior to the annual increment date.~~]

Section 10. Special Performance Evaluation. A special performance evaluation may be conducted at any time by the employee's supervisor to gauge the level of performance or to improve performance.

[~~Section 11.~~] [~~Incorporation by Reference.~~]

[~~(1)~~] [~~" Local Health Department Employee Performance Evaluation", CH-40B 5/2019, is incorporated by reference.~~]

[~~(2)~~] [~~This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, Division of Administration and Financial Management, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.~~]

JOHN R. LANGEFELD, MD, Commissioner
STEVEN J. STACK, MD, MBA, Secretary

APPROVED BY AGENCY: October 5, 2025

FILED WITH LRC: January 7, 2025 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks and Krista Quarles
Subject Headings: Local Health Departments; Personnel; Public Health

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements and procedures for the evaluation of local health department employee performance.

(b) The necessity of this administrative regulation: This administrative

regulation is necessary to ensure consistent employee performance evaluation procedures are applied across all local health departments.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.1755 authorizes the cabinet to promulgate administrative regulations that establish policies and procedures for the conditions of employment, conditions of termination, and employee performance evaluations.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all local health departments follow consistent policies and procedures related to employee performance evaluations.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation updates the employee performance procedures and deletes the material incorporated by reference as this material is no longer required.
(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary because the local health department personnel program has moved an electronic system for documenting employee performance evaluations.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.1755 authorizes the cabinet to promulgate administrative regulations that establish policies and procedures for the conditions of employment, conditions of termination, and employee performance evaluations.
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation ensures all local health departments follow consistent procedures related to evaluating employee performance.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment to this administrative regulation will impact individuals seeking employment at fifty-eight (58) local health departments.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Local health department supervisors who conduct employee performance evaluations will need to be aware of the updated procedures.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will not no cost to the regulated entities to comply with the amendment to this administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The update to an electronic employee evaluation system will streamline the performance evaluation process for supervisors and employees.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: This is an ongoing program, there are no initial costs.
(b) On a continuing basis: There will be no cost associated with implementing the amendment to this administrative regulation on an ongoing basis.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Local health departments are funded through a mix of revenue received through fees, local tax dollars, federal grant dollars, and additional funds received from the state.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees and funding is not needed to implement the amendment to this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees contained in this administrative regulation.
(10) TIERING: Is tiering applied? Tiering is not applied as the requirements of the amendment to this administrative regulation are applied equally to all regulated entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050 and 211.1755
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Division of Administration and Financial Management in the Department for Public Health, Cabinet for Health and Family Services is the promulgating agency.
(a) Estimate the following for the first year:
Expenditures: The amendment to this administrative regulation will not impact the expenditures for the promulgating agency.
Revenues: The amendment to this administrative regulation does not generate revenue.
Cost Savings: The amendment to this administrative regulation will not result in cost savings.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change to expenditures, revenues or cost savings in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities are fifty-eight (58) local health departments.
(a) Estimate the following for the first year:
Expenditures: The amendment to this administrative regulation will not result in expenditures for the affected local entities.
Revenues: The amendment to this administrative regulation will not generate revenue for the affected local entities.
Cost Savings: The amendment to this administrative regulation will result in minimal cost savings for the affected local entities.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, and cost savings will not change in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3): There are no additional regulated entities.
(a) Estimate the following for the first year:
Expenditures: Not applicable.
Revenues: Not applicable.
Cost Savings: Not applicable.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: The amendment to this administrative regulation will have minimal fiscal impact. It will not impact the expenditures, revenues, or cost savings for the promulgating agency. The transition to an electronic employee performance evaluation system will result in minimal cost savings for the affected local entities but will no impact on expenditures or revenues for the local health departments.
(b) Methodology and resources used to determine the fiscal impact: This administrative regulation does not generate revenue. Cost savings will be incurred by reducing the amount of printing cost for a paper version of the employee performance evaluation.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The amendment to this administrative regulation will not have an overall negative or adverse major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management
(Amendment)

902 KAR 8:120. Leave provisions applicable to employees of local health departments.

RELATES TO: KRS 211.170(1), (2), 212.170(4), 212.870, Chapter 337, 29 C.F.R. Part 825,

STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755(2), (3)(a)1

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.1755(2) requires the cabinet to promulgate administrative regulations establishing the policies and procedures of the local health department personnel program. KRS 211.1755(3)(a)1. requires the cabinet to promulgate administrative regulations for local health department personnel leave policies. This administrative regulation establishes work hours, leave, and compensatory time provisions for employees of local health departments.

Section 1. Hours of Work.

(1) The normal work week shall consist of thirty-seven and one-half (37.5) hours per week.

(a) The appointing authority shall establish the hours and days of work for the agency or for specific employees.

(b) The work schedule may be changed by the appointing authority to provide for flexibility in meeting particular work requirements of the agency or specific employees whose schedules may require them to work different hours.

(2) Hours worked in excess of the thirty-seven and one-half (37.5) hours during the established work week shall be:

(a) Approved by the appointing authority; and

(b) Subject to compensatory time and overtime provisions of this administrative regulation.

(3) The standard pay period shall consist of seventy-five (75) hours.

(4) An appointing authority, with department approval, may establish a position having special conditions of employment based on the needs of the agency.

(5) The employee who requests and receives consideration for special conditions shall acknowledge acceptance of the special conditions in writing.

Section 2. Earning of Annual Leave.

(1) Except for a temporary or an emergency employee, a full-time employee shall earn annual leave credit at the following rate:

Years of Service	Annual Leave Hours Earned[~~Per Pay Period-Per Year of Twenty-six (26)~~][~~Pay Periods~~]
0 to 5 years	3.5 hours per pay period-91.0 hours per year
5 to 10 years	4.4 hours per pay period-114.4 hours per year
10 to 15 years	5.2 hours per pay period-135.2 hours per year
15 to 20 years	6.1 hours per pay period-158.6 hours per year
20 years or more	7.0 hours per pay period-182 hours per year

(2) Annual leave for a full-time employee shall not accrue unless the employee has been in pay status at least thirty-seven and one-half (37.5) hours of the standard pay period. The employee shall be credited with additional leave credit upon the first day of the pay period following the pay period in which the leave was earned.

(3) Except for a temporary or an emergency employee, a part-time employee, who is designated as serving on a part-time 100 hour basis and is in pay status at least twenty-three (23) hours each pay period, shall earn annual leave credit at the following rate:

Years of Service	Annual Leave Hours Earned[~~Per Pay Period~~]-[~~Per Year of Twenty-six (26) Pay Periods~~]
0 to 5 years	2.1 hours per pay period-54.6 hours per year
5 to 10 years	2.6 hours per pay period-67.6 hours per year
10 to 15 years	3.1 hours per pay period-80.6 hours per year
15 to 20 years	3.6 hours per pay period-93.6 hours per year
20 years or more	4.2 hours per pay period-109.2 hours per year

(4) In computing years of total service for determining the rate of earning annual leave for designated part-time 100 hour employees, only the months the employee was designated as a full-time, part-time 100 hour, or was on educational leave with pay shall be used.

(5) An employee who has retired from a position covered by a state retirement system, is receiving retirement benefits, and returns to an agency, shall not receive credit for months of service prior to retirement.

(6) An employee who has resigned from one (1) agency and returns to another agency as an original appointment shall not receive credit for months of service prior to resignation.

(7) Annual leave shall not accrue unless an employee is working or on authorized leave with pay. Annual leave shall not accrue if an employee is on authorized educational leave with pay.

(8) The maximum amount of annual leave earned by a full-time employee that may be accumulated and carried forward to the next calendar year shall not exceed the following amounts:

Years of Service	Maximum Amount of Annual Leave Earned by Full-time Employees
0 to 5 years	225.0 hours
5 to10 years	277.5 hours
10 to 15 years	337.5 hours
15 to 20 years	390.0 hours
Over 20 years	450.0 hours

(9) The maximum amount of annual leave for a designated part-time 100 hour employee who works an average of 100 hours per month that may be accumulated and carried forward to the next calendar year shall not exceed the following amounts:

Years of Service	Maximum Amount of Annual Hours Earned by Designated Part-time 100 Employees
0 to 5 years	120 hours
5 to 10 years	148 hours
10 to 15 years	180 hours

15 to 20 years	208 hours
Over 20 years	240 hours

(10) Except as provided for in Section 3(8) of this administrative regulation, annual leave earned in excess of that which is allowed to be accumulated shall be converted to sick leave and credited during the first pay period following the end of the calendar year. Annual leave shall not be granted in excess of that earned.

Section 3. Use of Annual Leave Credit.

(1) An employee who has accumulated annual leave credit, upon timely request and subsequent approval of the supervisor, shall be granted leave subject to the operating requirements of the agency.

(2) An employee shall not be charged with annual leave for absence except on a day upon which they would otherwise work and receive pay.

(3) Absence for a fraction or part of a day that is chargeable to annual leave shall be charged in fifteen (15) minute periods.

(4) An employee shall be paid a lump sum for accumulated annual leave, not to exceed the maximum amounts established in Section 2 of this administrative regulation, if separated by proper resignation, layoff, retirement, or change from full-time or part-time 100 hour to part-time. Following payment of annual leave, leave remaining after the payment of the maximum provided in Section 2 of this administrative regulation shall be removed from the balance.

(5) An employee who has been dismissed for cause shall not be paid for accumulated annual leave. An appointing authority may withhold payment of accumulated annual leave for an employee who has failed to give proper notice of resignation or retirement or who has submitted notice of resignation or retirement after receiving an intent to dismiss letter. Annual leave withheld shall result in a determination that the employee resigned not in good standing.

(6) Upon the death of an employee, the employee's estate shall be entitled to be paid for the unused portion of the employee's accumulated annual leave.

(7)[~~(6)~~] Annual leave shall not be advanced or taken until it is earned.

(8)[~~(7)~~] An absence due to sickness, injury, or disability in excess of accumulated sick leave, may be charged against annual leave if approved by the appointing authority.

(9)[~~(8)~~] An employee who has accumulated annual leave in excess of 275 hours may request payment of an amount of annual leave not to exceed seventy-five (75) hours during the fiscal year of the agency. The requested annual leave payment, if approved by the appointing authority, shall not reduce the employee's balance of annual leave below 275 hours and shall be paid in a manner convenient to the agency.

(10)[~~(9)~~] An appointing authority may require an employee who has a balance of compensatory leave hours to use compensatory leave before the employee's request to use annual leave balance is granted, unless the employee's annual leave balance will exceed the maximum number of hours that may be carried forward pursuant to Section 2(8) and (9) of this administrative regulation.

Section 4. Earning of Sick Leave.

(1) A full-time employee, except for an emergency employee, shall earn sick leave at the rate of three and one-half (3.5) hours per pay period.

(a) An employee shall have worked or been in pay status for at least thirty-seven and one-half (37.5) hours of the seventy-five (75) standard hours in each pay period in order to accumulate sick leave.

(b) The employee shall be credited with sick leave upon the first day of the pay period following the pay period in which the leave was earned.

(2) An employee designated as a part-time 100 hour employee, except for an emergency employee, who is in pay status at least twenty-three (23) hours in a pay period shall earn sick leave at the rate of two and one-tenth (2.1) hours per pay period. A part-time 100 hour employee shall be credited with additional sick leave upon the first day of the pay period following the pay period in which the leave was earned.

(3) A full-time employee completing ten (10) years of total service in full-time status with an agency shall be credited with seventy-five (75) additional hours of sick leave.

(4) An employee designated as a part-time 100 hour employee completing ten (10) years of total service in a part-time 100 status with an agency shall be credited with forty-five (45) additional hours of sick leave.

(5) A full-time employee completing 240 months of total service in a full-time status with one (1) or more agencies shall be credited with an additional seventy-five (75) hours of sick leave.

(6) An employee designated as a part-time 100 hour employee completing 240 months of total service in a part-time 100 status with one (1) or more agencies shall be credited with forty-five (45) additional hours of sick leave.

Section 5. Uses of Sick Leave Credit.

(1) The appointing authority, upon proper request, may grant sick leave with pay to a full-time or designated part-time 100 hour employee with sufficient leave credit, if the employee:

(a) Receives medical, psychiatric, dental, or optical examination or treatment;

(b) Is disabled by sickness or injury;

(c) Is required to provide care for a sick or injured spouse, child, step-child, parent, step-parent, brother, step-brother, sister, step-sister, grandparent, step-grandparent, grandchild, step-grandchild, mother- or father-in-law, or daughter- or son-in-law;

(d) Would jeopardize the health of others at his or her workstation post because of exposure to a contagious disease;

(e) Has lost by death a spouse, child, step-child, parent, step-parent, brother, step-brother, sister, step-sister, grandparent, step-grandparent, grandchild, step-grandchild, mother- or father-in-law, or daughter- or son-in-law; or

(f) Is required to take the employee's spouse, child, step-child, parent, step-parent, brother, step-brother, sister, step sister, grandparent, step-grandparent, grandchild, step-grandchild, mother- or father-in-law, or daughter- or son-in-law for medical, psychiatric, dental, or optical examination or treatment.

(2) Accumulated sick leave may be granted for death in the employee's family, as described in subsection (1) of this section, and shall be limited to three (3) days or a reasonable extension at the discretion of the appointing authority.

(3) An employee shall file a written request for sick leave with or without pay within a reasonable time. An employee shall request advance approval for sick leave for medical, dental, or optical examination and for sick leave without pay.

(4) Except for an unexpected absence from work because of an illness, the employee shall notify the employee's supervisor or other designated person in advance. Failure to do so in a reasonable time period may be cause for denial of the sick leave for the period of absence or for disciplinary action.

(5)

(a) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave for the days or hours sick leave is requested.

(b) A medical certificate may be required signed by a licensed practitioner and certifying to the incapacity, examination, and treatment during the time for which sick leave was taken.

(c) An appointing authority may grant sick leave if the application is supported by acceptable evidence, but may require confirmation if there is reasonable cause to question the authenticity of the certificate or its contents.

(6) If an employee requests leave in excess of five (5) working days, a statement from the employees' licensed practitioner shall accompany the request for leave. The statement shall contain:

(a) The licensed practitioner's judgment that the employee is incapable of performing the essential duties of the job;

(b) Estimate of the length of time that the employee's illness or disability will last;

(c) Restrictions that render the employee incapable of performing the essential duties of the job; and

(d) Recommendation for special considerations to accommodate the employee once released to return to work.

(7) An appointing authority may place an employee on sick leave with or without pay, if:

(a) The employee's health might jeopardize others;

(b) The employee's health prevents performance of job duties and responsibilities;

(c) The employee fails to produce a satisfactory medical certificate upon request; or

(d) The employee exhibits behavior that disrupts the agency's ability to function in providing services or that might endanger the employee or others.

(8) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in fifteen (15) minute periods.

(9) An employee who is transferred or otherwise changed from one (1) agency to another shall retain accumulated sick leave in the receiving agency.

(10) A former employee who is reinstated or reemployed shall have his or her previous rate of earning annual leave and unused sick leave balances reinstated upon successful completion of probation, if applicable.

(11) Sick leave may be utilized in cases of absence due to illness or injury for which workers' compensation income benefits are received for lost time to the extent of the differences between these benefits and the employee's regular salary.

Section 6. Family and Medical Leave.

(1) An appointing authority shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601 et seq., Pub.L. 103-3, and the federal regulations implementing the Act, 29 C.F.R. Part 825.

(2) An employee shall qualify for twelve (12) weeks of unpaid family and medical leave if the employee has:

(a) Completed twelve (12) months of service; and

(b) Worked at least 1,250 hours in the twelve (12) months immediately preceding the first day of family and medical leave.

(3) An employee shall be entitled to a maximum of twelve (12) weeks of unpaid family and medical leave for the birth, placement, or adoption of the employee's child.

(4) While an employee is on unpaid family and medical leave, the employer contribution for health and life insurance shall be maintained by the employer.

(5) An employee shall use accrued paid leave concurrently with FMLA leave, except an employee may reserve up to ten (10) days of accumulated sick leave while on FMLA leave. If an employee reserves accumulated sick leave, the remaining FMLA leave will be unpaid.

Section 7. Maternity Leave.

(1) The appointing authority shall grant a maternity leave of absence to an employee because of pregnancy or the adoption of a child. Maternity leave shall not exceed twelve (12) weeks, unless the appointing authority approves additional maternity leave. However, the total leave shall not exceed twenty-six (26) pay periods.

(2) The employee on maternity leave shall use accumulated sick leave credit if available:

(a) For the period of time medically necessary to be absent from work as indicated by the certification of a licensed practitioner; or

(b) For the period of time for placement of a child for adoption with the employee that includes:

1. Counseling sessions;

2. To appear in court;

3. Consult with attorneys or doctors representing the birth parents;

4. Submit to a physical; or

5. Travel to complete adoption.

(c) If sick leave is not available, the employee shall use accumulated annual or compensatory leave if available.

(d) If leave credit is exhausted, the employee shall be placed on leave without pay.

(3) Accumulated annual and compensatory time shall be used for maternity leave that extends beyond the period of absence that is medically necessary for the employee as certified by the employee's medical practitioner.

(4) The employee shall submit a written request for maternity absence, which shall include a statement from a licensed practitioner indicating the expected date of delivery.

(a) The request shall be submitted to the appointing authority as soon as practical to allow for adjustments in the work schedule during the employee's absence.

(b) Additional information from the employee's licensed practitioner may be required if there are complications and the period of absence begins sooner than agreed, extends further than agreed, or requires the use of maternity leave beyond twelve (12) weeks.

Section 8. Workers' Compensation.

(1)

(a) The required medical expense for a service rendered by a hospital or doctor, or for a prescribed medication, shall be paid subject to approval of the claim.

(b) A percentage of the employee's average weekly wage shall be paid if the employee is unable to work for an extended period due to a job-related injury or illness.

(c)

1. Except as provided in subparagraph 2. of this paragraph, compensation shall not be payable for the first seven (7) days of disability.

2. If the disability continues over two (2) weeks, compensation shall be allowed from the first day of disability.

(2) The appointing authority shall offer an employee one (1) of the following options of compensation for an absence due to illness or injury for which workers' compensation benefits are eligible:

(a) Allow employee to accept the workers' compensation benefits directly and use accumulated leave in order to maintain regular full salary; or

(b) Allow employee to use accumulated leave to maintain regular full salary, or a portion thereof, and remit the workers compensation benefits to the agency to reinstate accumulated leave used for the period of time benefits were paid.

(3) The employee shall not receive and retain the benefit of paid leave and workers' compensation income benefits that exceeds his or her regular full salary for the same period of time.

Section 9. Sick Leave Without Pay.

(1) An appointing authority may approve sick leave without pay upon appropriate request of an employee.

(2) An employee shall have used accumulated annual, sick, and compensatory leave credit prior to approved leave without pay.

(3) If an employee approved for leave with pay exhausts accumulated annual, sick, and compensatory leave credit, the employee shall be placed on sick leave without pay, if the total absence does not exceed twenty-six (26) pay periods.

(4) The appointing authority may require periodic statements from a licensed practitioner during the sick leave without pay period attesting to the employee's inability to perform the essential functions of the employee's job duties with or without reasonable accommodation.

Section 10. Return from Sick Leave With or Without Pay.

(1) At the termination of sick leave with pay not exceeding thirteen (13) pay periods, the appointing authority shall return the employee to his or her former position.

(2) At the termination of sick leave with pay exceeding thirteen (13) pay periods, the appointing authority shall return the employee to a position for which he or she is qualified and that resembles his or her former position as closely as circumstances permit. If the employee is unable to perform the essential functions of the position, and there is no other vacant position for which the employee qualifies and is able to perform, the employee may be laid off.

(3) If an employee on approved sick leave without pay for less than twenty-six (26) pay periods has given notice of his or her ability to resume his or her duties, the appointing authority shall return the employee to a position for which he or she is qualified and that resembles his or her former position as closely as circumstances

permit. If the employee is unable to perform the essential functions of the position, and there is no other vacant position for which the employee qualifies and is able to perform, the employee may be laid off.

(4) An employee shall be considered to have resigned if the employee:

(a) Has been on continuous sick leave without pay for twenty-six (26) pay periods;

(b) Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of sick leave;

(c) Is unable to return to the employee's former position or to a position for which the employee is qualified and that resembles the former position as closely as circumstances permit;

(d) Has been given priority consideration by the appointing authority for a vacant position with the agency, for which the employee qualifies and is capable of performing its essential functions with or without reasonable accommodation; and

(e) The appointing authority has been unable to place the employee in a vacant position.

Section 11. Sharing of Sick Leave.

(1) An employee of the local health department who has accrued a sick leave balance of more than seventy-five (75) hours may, with the approval of the appointing authority, request the transfer of a specified amount of the employee's sick leave balance in excess of seventy-five (75) hours to another named status employee of the local health department who is authorized to receive sick leave.

(2) The appointing authority may approve the amount of sick leave received under this section if:

(a) The employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or psychiatric condition that has caused, or is likely to cause, the employee to go on leave;

(b) The employee's need for absence and use of leave are certified by a licensed practitioner; and

(c) The employee has exhausted his or her accumulated sick leave, annual leave, and compensatory leave balances.

(3) Leave may be transferred from an employee of one (1) agency to an employee within the same agency or may be transferred from an employee of one (1) agency to an employee of another agency. The agency shall maintain records of leave transferred between employees and the utilization of transferred leave.

(4) If an employee is on leave transferred under this section, he or she shall receive the same treatment with respect to salary, wages, and employee benefits.

(5) Salary and wage payments made to an employee while on leave transferred under this section shall be made by the agency employing the person receiving the leave.

(6) Leave transferred under this section which remains unused shall be returned, on a prorated basis, to the employees who transferred the leave if the appointing authority finds that the leave is no longer needed and will not be needed at a future time in connection with the illness or injury for which the leave was transferred to an employee in his or her agency.

(7) An employee shall not intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, either directly or indirectly, another employee for the purpose of interfering with the employee's right to voluntarily contribute leave as authorized under this section.

Section 12. Court Leave. An employee shall be entitled to a leave of absence, without loss of pay or time, for each day the employee is subpoenaed by a court to serve as a juror or witness, except in a case where the employee or a member of the employee's family is a party plaintiff. If relieved from duty as a juror or witness during normal working hours, the employee shall return to work. An employee shall retain the fees earned while serving as a potential juror.

Section 13. Military Leave.

(1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from duty without the loss of pay or time to serve under orders on training duty for a period of up to ten (10) working days, not to exceed seventy-five (75) hours in any one (1) federal fiscal (October 1 to September 30) year. The appointing authority, before granting military leave, may require a copy of the orders requiring the attendance of the employee.

(2) The appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of active duty not to exceed six (6) years. Accumulated annual leave and compensatory leave may be paid in lump sum at the request of the employee, upon being placed on leave.

(3) A part-time 100 or full-time status employee, who is a spouse or a member of the U.S. Armed Forces, including a member of a state National Guard or a Reserve component on federal duty, shall receive one (1) day off, with pay, from work when the member is deployed and one (1) day off, with pay, from work when the member returns.

Section 14. Voting Leave. The appointing authority shall allow each employee four (4) hours paid leave to vote, if requested in advance. The absence shall not be charged against accumulated leave.

Section 15. Special Leave of Absence.

(1) An appointing authority may grant special leave for education, training, or for other circumstances.

(2) Leave may be granted for a period not to exceed twenty-six (26) pay periods.

(3) Leave may be granted without pay if all other leave has been exhausted.

(4) Leave for attendance at a college, university, vocational or business school shall be for training in subjects that:

(a) Relate to the employee's work; and

(b) Will benefit the agency.

Section 16. Administrative Leave for Investigative Purposes.

(1) An appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of a work-related incident or an allegation of employee misconduct.

(2) Leave shall not exceed thirty (30) working days.

(3) The employee shall be notified in writing by the appointing authority that he or she is being placed on special leave for investigative purposes and the reasons for being placed on leave.

(4) If the investigation reveals no misconduct by the employee:

(a) The employee shall be made whole for the period of the leave; and

(b) Records relating to the investigation shall be purged from agency files.

(5) The appointing authority shall notify the employee, in writing, of the completion of the investigation and the action taken. Notification shall be made to the employee, whether the employee has remained with the agency, or has voluntarily resigned during the interim between being placed on special leave for investigative purposes and the completion of the investigation.

Section 17. Absence Without Leave.

(1) An employee who is absent from duty without prior approval shall report the reason for the absence to the employee's supervisor immediately.

(2) Unauthorized or unreported absence shall:

(a) Be considered absence without leave;

(b) Be treated as leave without pay for an employee covered by the provisions of the Fair Labor Standards Act, 29 U.S.C. Chapter 8; and

(c) Constitute grounds for disciplinary action.

(3) A deduction of pay may be made by the appointing authority for each period of absence.

(4) An employee who has been absent without leave or notice to the supervisor for more than three (3) working days shall be considered to have resigned the employee's position.

Section 18. Holidays.

(1) Agency full-time employees shall be given a 7.5 hours holiday on the following days:

(a) The first day of January and one (1) extra day;

(b) The third Monday in January;

(c) One-half (1/2) day for Good Friday (3.75 hours);

(d) The last Monday in May;

(e) The fourth day of July;

(f) The first Monday in September;

(g) The 11th day of November;

(h) The fourth Thursday in November plus one (1) extra day;

(i) The 25th of December and one (1) extra day;[and]

(j) Presidential election day; and

(k) Holidays issued by Executive Order of the Governor while in effect.

(2) If a day enumerated in subsection (1) of this section falls on a Saturday, the preceding Friday shall be observed as the holiday. If the day enumerated falls on a Sunday, the following Monday shall be observed as the holiday. If an extra day is provided for, it shall be observed as stated by the department.

(3) A full-time employee shall be in pay status on the work day prior to the holiday in order to receive the 7.5 hour holiday benefit.

(4) Full-time exempt employees required to work on a holiday shall accrue compensatory time for the time worked.

Section 19. Absences Due to Adverse Weather.

(1) An employee who chooses not to report to work, or who leaves early, in the event of adverse weather conditions, shall have the absence:

(a) Charged to annual or compensatory leave; or

(b) Taken as leave without pay, if annual and compensatory leave has been exhausted.

(2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested unless the agency closes down. Once the agency closes, all employees are paid other paid leave.

(3) If catastrophic, life-threatening weather conditions occur, such as that created by hurricane, tornado, flood, or blizzard, and it becomes necessary for authorities to order evacuation or shutdown of the place of employment, the following provisions shall apply:

(a) An employee who is required to evacuate or who would report to a location that has been shut down shall not be required to make up the time lost from work during the period officially declared hazardous to life and safety.

(b) An employee who is required to work in an emergency situation shall be compensated pursuant to Section 20 of this administrative regulation.

Section 20. Earning of Compensatory Time.

(1) An employee determined to be exempt under the provisions of the Fair Labor Standards Act, 29 U.S.C. 207, and Kentucky Wage and Labor Law, KRS Chapter 337, authorized by the appointing authority to work in excess of the prescribed thirty-seven and one-half (37.5) hours of duty in one (1) week shall accumulate compensatory time in fifteen (15) minute periods for excess time worked on an hour-for-hour basis. The maximum amount of compensatory time accumulated shall be 200 hours.

(2) An employee shall have the prior approval of the appointing authority or the employee's immediate supervisor before compensatory leave may be earned.

(3) A nonexempt employee authorized by the appointing authority to work in excess of the prescribed thirty-seven and one-half (37.5) hours of duty in one (1) week shall be paid at the employee's current salary for each hour not subject to the provisions of the Fair Labor Standards Act, 29 U.S.C. 207, and Kentucky Wage and Labor Law, KRS Chapter 337.

(4) Any time worked in excess of forty (40) working hours in one (1) week shall be paid overtime at a rate of one and one-half (1 1/2) for each hour exceeding forty (40) working hours. Holiday pay and other types of non-working hours paid are not included in the total number of working hours subject to time and a half overtime pay.

Section 21. Using Accumulated Compensatory Time.

(1) An employee who has accrued compensatory time shall be permitted by the appointing authority to take compensatory time off if practical and upon proper request by the employee.

(2) An employee who has accumulated at least thirty (30) hours of compensatory time may be paid for the accumulated leave by the appointing authority upon written request. If payment is approved by the appointing authority, it shall be at the employee's regular rate of pay and in thirty (30) hour increments.

(3) If an employee has accumulated the maximum amount of compensatory leave, the appointing authority shall pay the employee for at least fifty (50) hours of accumulated compensatory leave at the employee's regular rate of pay and shall reduce the employee's compensatory leave balance accordingly.

(4) Upon separation from service or transfer to another agency, unused compensatory time shall be reimbursed in a lump sum payment to the employee.

(5) Upon the death of an employee, the employee's estate shall be paid for unused accumulated compensatory time.

(6) Employees dismissed for cause may have unused compensatory time forfeited in lieu of payment.

JOHN R. LANGEFELD, MD, Commissioner
STEVEN J. STACK, MD, MBA, Secretary

APPROVED BY AGENCY: October 5, 2025

FILED WITH LRC: January 7, 2025 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026 at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks and Krista Quarles
Subject Headings: Local Health Departments; Personnel; Public Health

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes work hours, leave, and compensatory time provisions for employees of local health departments.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure consistent work hours, leave, and compensatory time policies and procedures are followed by all regulated entities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.1755 authorizes the cabinet to promulgate administrative regulations that establish policies and procedures for local health department personnel regarding leave policies, conditions of employment, and conditions for termination.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all local health departments follow consistent policies and procedures related to work hours, leave provisions, and

compensatory time.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation adds that an employee who separates employment without proper notice or who is dismissed for cause shall not be paid for the accumulated annual leave, clarifies that the rate for holiday pay is based on a 7.5 hour work day, and adds that an employee who is dismissed for cause shall not be paid for the accumulated compensatory time.
(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to ensure employees who are dismissed for cause or who fail to provide proper notice are aware of the consequence for failing to follow proper procedures.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.1755 authorizes the cabinet to promulgate administrative regulations that establish policies and procedures for local health department personnel regarding leave policies, conditions of employment, and conditions for termination.
(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation ensures all local health departments follow consistent policies and procedures related to work hours, leave provisions, and compensatory time.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment to this administrative regulation will impact individuals seeking employment at fifty-eight (58) local health departments.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Local health department employees will need to be aware of the requirements for giving proper notice when they terminate employment to avoid a negative consequence.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The costs to the individual employee will be dependent on the dollar amount of accumulated annual and compensatory time. This will only impact those that fail to provide proper notice or who are dismissed for cause.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Local health department employees who provide proper notice will receive their full benefits when terminating employment.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: This is an ongoing program, there are no initial cost.
(b) On a continuing basis: There is no anticipated increase in cost to implement the amendment to this administrative regulation on an ongoing basis.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Local health departments are funded through a mix of revenue received through fees, local tax dollars, federal grant dollars, and additional funds received from the state.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees and funding is not needed to implement the amendment to this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees contained in this administrative regulation.
(10) TIERING: Is tiering applied? Tiering is applied. While all employees are entitled to receive payment of their accumulated annual and compensatory leave at the end of their employment, those who fail to provide proper notice or who are dismissed for cause will not receive payment for their accumulated annual or compensatory leave balances.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050 and 211.1755.
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Division of Administration and Financial Management in the Department for Public Health, Cabinet for Health and Family Services is the promulgating agency.
(a) Estimate the following for the first year:
Expenditures: The amendment to this administrative regulation does not impact expenditures for the promulgating agency.
Revenues: The amendment to this administrative regulation does not generate revenue for the promulgating agency.
Cost Savings: The amendment to this administrative regulation does not result in cost savings for the promulgating agency.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities are fifty-eight (58) local health departments.
(a) Estimate the following for the first year:
Expenditures: The amendment to this administrative regulation may reduce expenditures for the affected local entities as they would not be required to issue payment of accumulated annual and compensatory leave to an employee who fails to provide proper notice or who is dismissed for cause.
Revenues: The amendment to this administrative regulation does not generate revenue for the affected local entities.
Cost Savings: The amendment to this administrative regulation will not result in cost savings for the affected local entities.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3): There are no additional regulated entities.
(a) Estimate the following for the first year:
Expenditures: Not applicable.
Revenues: Not applicable.
Cost Savings: Not applicable.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: The fiscal impact of the amendment to this administrative regulation cannot be determined. The impact to expenditures for the affected local entities is dependent on the number of employees who fail to provide proper notice or who are dismissed for cause as well as the amount of accumulated leave time the individual employee has earned at the end of their employment.
(b) Methodology and resources used to determine the fiscal impact: Not applicable.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The amendment to this administrative regulation does not have an overall negative or adverse major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. The Family and Medical Leave Act (FMLA) of 1993, Pub.L. 103-3, 29 U.S.C. 2601, the Fair Labor Standards Act, 29 U.S.C. Chapter 8, 207, and 29 C.F.R. Part 825.
(2) State compliance standards. The cabinet is to administer a personnel program for local health departments based on the principles of merit governing the recruitment, examination, appointment, discipline, removal and other incidents of employment for county, city-county, and district agencies.

(3) Minimum or uniform standards contained in the federal mandate. The Family and Medical Leave Act, 29 U.S.C. 2601, entitles employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The Fair Labor Standards Act, 29 U.S.C. Chapter 8 and specifically 207, requires that an employee that works longer than forty (40) hours in a work week shall receive compensation for his or her work in excess of forty (40) hours at a rate not less than one and one-half (11/2) times the regular rate as which he or she is employed.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements than those required under FMLA or the Fair Labor Standards Act.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Audits and Investigations
(Amendment)

902 KAR 55:095. Prescription for Schedule II controlled substance – authorization of oral prescriptions for immediate administration, facsimile transmission, or partial filling.

RELATES TO: KRS 216.510(1), 216B.042, 218A.060, 218A.180, 218A.200, 21 C.F.R. 290.10, 1306.05, 1306.11-1306.14
STATUTORY AUTHORITY: KRS 194A.050, 218A.180(1), 218A.250
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.250 requires the Cabinet for Health and Family Services to promulgate administrative regulations for carrying out the provisions of KRS Chapter 218A relating to controlled substances. This administrative regulation permits the transmission of prescriptions for Schedule II controlled substances between the prescriber and dispenser via oral authorization for immediate administration or by facsimile to facilitate the delivery of medications to certain patients whose need for medication shall be initiated or changed quickly. This administrative regulation also permits the partial filling of prescriptions for Schedule II controlled substances if requested by the patient or prescribing practitioner to patients whose medication needs may be long term but who wish to store limited quantities or in situations where the pharmacy is unable to supply the full quantity prescribed.

Section 1. Definitions.
(1) "Hospice" means a hospice program licensed pursuant to KRS 216B.042.
(2) "Immediate administration" means an emergency situation in which the prescribing practitioner determines the following criteria exists for the purposes of authorizing an oral prescription for a Schedule II controlled substance:
(a) Immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user;
(b) No appropriate alternative treatment is available, including administration of a drug that is not a Schedule II controlled substance; and
(c) It is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the substance prior to the dispensing.
(3) "Long-term care facility" or "LTCF" is defined by KRS 216.535(1)(a) and, pursuant to KRS 218A.180(1), shall not include a family care home or personal care home.

Section 2. Oral Prescription Only for Immediate Administration.
(1) A pharmacist may dispense a Schedule II controlled substance upon receiving oral authorization from a prescribing practitioner under the following conditions:
(a) Pursuant to KRS 218A.180(1), the prescription shall be needed for immediate administration to a patient enrolled in a hospice program or a resident of a long-term care facility;
(b) The quantity prescribed and dispensed shall be limited to the amount adequate to treat the patient or resident during the period in which immediate administration is necessary; and
(c) The prescribing practitioner personally communicates the oral prescription.
(2) Except for the signature of the prescribing practitioner, the prescription shall:
(a) Be immediately reduced to writing by the pharmacist in accordance with KRS 218A.180(6); and
(b) Contain all information required by KRS 218A.180(5) and 21 C.F.R. 1306.05.
(3) If the prescribing practitioner is not known to the pharmacist, the pharmacist shall make a reasonable effort to determine that the oral authorization came from a registered practitioner, which may include:
(a) A callback to the prescribing practitioner using the practitioner's phone number as listed in the telephone directory; or
(b) Other good faith efforts to ensure the practitioner's identity.
(4) Within seven (7) days after authorizing an oral prescription for immediate administration, the prescribing practitioner shall cause a written or electronic prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist and demonstrate compliance with the requirements established in this subsection.
(a) In addition to conforming to the requirements of KRS 218A.180(5),[and]21 C.F.R. 1306.05, 902 KAR 55:105 and 902 KAR 55:130, the prescription shall:
1. Have written on its face "Authorization for Emergency Dispensing" and the date of the oral order; and
2. Be delivered to the pharmacist:
a. In person;
b. By mail; or
c. Electronically pursuant to paragraph (d) of this subsection.
(b) If delivered by mail, the prescription shall be postmarked within seven (7) days of the date of the oral prescription for immediate administration.
(c) Upon receipt, the dispensing pharmacist shall attach the paper prescription to the oral prescription for immediate administration that was earlier reduced to writing.
(d) For electronic prescriptions, the pharmacist shall annotate the record of the prescription with the:
1. Original authorization; and
2. Date of the oral order.
(e) If the prescribing practitioner fails to deliver a written prescription to the pharmacist in accordance with this subsection, the pharmacist shall notify the nearest Drug Enforcement Administration (DEA) office.
(f) Failure of the pharmacist to comply with paragraph (e) of this subsection shall void the authority conferred by this subsection to dispense without a written prescription of a prescribing practitioner.
(5) A central fill pharmacy shall not be authorized under subsection (4) of this section to prepare prescriptions for a Schedule II controlled substance upon receiving an oral authorization from a retail pharmacist or a prescribing practitioner.
(6) Dispensing a Schedule II controlled substance beyond the period necessary for immediate administration shall be pursuant to a written or electronic prescription signed by the prescribing practitioner.

Section 3. Transmission by Facsimile of a Prescription for a Schedule II Controlled Substance.

(1) A prescription prepared in accordance with KRS 218A.180, 21 C.F.R. 1306.05, 902 KAR 55:080, and 902 KAR 55:105, Section 2, for a Schedule II narcotic substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by a practitioner or the practitioner's agent to the dispensing pharmacy by facsimile.

(2) A prescription prepared in accordance with KRS 218A.180, 21 C.F.R. 1306.05, 902 KAR 55:080, and 902 KAR 55:105, Section 2, for a Schedule II controlled substance for a resident of a long-term care facility may be transmitted by a practitioner or the practitioner's agent to the dispensing pharmacy by facsimile.

(3)

(a) A prescription prepared in accordance with KRS 218A.180, 21 C.F.R. 1306.05, 902 KAR 55:080, and 902 KAR 55:105, Section 2, for a Schedule II controlled substance for a hospice patient may be transmitted by a practitioner or the practitioner's agent to the dispensing pharmacy by facsimile.

(b) The practitioner or the practitioner's agent shall note on the prescription that the patient is a hospice patient.

(4) The facsimile prescription shall:

(a) Serve as the original written prescription for the purposes of subsections (1) to (3) of this section and as allowed by KRS 218A.180(1) for the dispensing of a Schedule II controlled substance; and

(b) Be maintained in the same manner as an original prescription.

Section 4. Partial Filling of a Prescription for a Schedule II Controlled Substance.

(1) Except as provided in subsections (2) and (3) of this section, a pharmacist may partially fill a prescription for a controlled substance listed in Schedule II if the pharmacist:

(a) Is unable to dispense the full quantity called for in a written prescription or oral prescription for immediate administration as authorized by Section 2 of this administrative regulation;

(b) Makes a notation of the quantity dispensed:

1. On the face of the written prescription;

2. In the written record of the oral prescription for immediate administration; or

3. In the electronic prescription record; and

(c) Dispenses the remaining portion of the prescription within seventy-two (72) hours of the first partial filling. If the remaining portion is not or cannot be filled within the seventy-two (72) hour period, the pharmacist shall notify the prescribing practitioner. No further quantity shall be dispensed without a new written prescription.

(2) A prescription for a Schedule II controlled substance written for a patient in a long-term care facility or for a patient with a documented terminal illness may be dispensed in partial quantities, including individual dosage units, if:

(a) The pharmacist records on the prescription whether the patient is "terminally ill" or an "LTCF patient";

(b) The pharmacist records on the back of the written prescription or on another appropriate record, uniformly maintained and readily retrievable, the following data:

1. The date of the partial dispensing;

2. The quantity dispensed;

3. The remaining quantity authorized to be dispensed; and

4. The identification of the dispensing pharmacist;

(c) The pharmacist contacts the practitioner prior to dispensing the partial quantity if there is any question whether the patient is terminally ill because both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient;

(d) The total quantity dispensed in all partial dispensings does not exceed the quantity prescribed;

(e) The partial dispensing occurs at the pharmacy where the original prescription is on file; and

(f) No dispensing occurs beyond sixty (60) days from date of issuance of the prescription.

(3) For a patient who is not terminally ill or a resident of a long-term care facility, a written prescription for a Schedule II controlled substance may be dispensed in partial quantities in accordance with the requirements established in this subsection.

(a) The partial dispensing shall be requested by the patient or the prescribing practitioner who issued the prescription.

(b) Dispensing shall not occur beyond thirty (30) days from the date of issuance of the prescription.

(c) The pharmacist shall comply with requirements established in subsection (2)(b), (d), and (e) of this section.

(4) The information required by this section pertaining to current Schedule II prescriptions may be maintained in a computerized system if the system has the capability to permit:

(a) Output (display or printout) of the:

1. Original prescription number;

2. Date of issue;

3. Identification of the prescribing practitioner;

4. Identification of the patient;

5. Address of the long-term care facility, hospital, or residence of the patient, if applicable;

6. Identification of medication authorized, including:

a. Dosage;

b. Form;

c. Strength; and

d. Quantity;

7. Listing of the partial fillings that have been dispensed under each prescription; and

8. Information required in 21 C.F.R. 1306.13(b);

(b) Immediate (real time) updating of the prescription record each time a partial filling of the prescription is conducted; and

(c) Retrieval of partially filled Schedule II prescription information that is the same as required by KRS 218A.180(7) for Schedule III and IV prescription refill information.

[~~(5)~~] [~~If a record keeping system is being used that does not permit refills of Schedule II controlled substances, a new prescription number for the partial dispensing shall be permitted.~~]

(5)[~~(6)~~] A prescription that is partially filled and does not comply with the requirements of this section shall be deemed to have been filled in violation of KRS 218A.200(3), (4) and 21 C.F.R. 1306.13.

TRICIA STEWARD, Inspector General
STEVEN J STACK, MD, MBA, Secretary
APPROVED BY AGENCY: September 23, 2025
FILED WITH LRC: January 7, 2026 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Valerie Moore and Krista Quarles Phone Number: (502) 564-7476 Email: CHFSregs@ky.gov
Subject Headings: Controlled Substances, Drugs and Medicines, Pharmacy
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation implements the dispensing of Schedule II controlled substances for emergency or immediate need pursuant to oral, electronic, and facsimile prescriptions, as well as partial filling of prescriptions for Schedule II controlled substances, as authorized by KRS 218A.180. Regulation 902 KAR 55:095 permits the transmission of prescriptions for Schedule II controlled substances between the prescriber and dispenser via oral authorization for immediate administration or by facsimile to facilitate the delivery of medications to certain patients whose need for medication shall be initiated or quickly changed. This administrative regulation also permits the partial filling of prescriptions for Schedule II controlled substances if requested by the patient or prescribing practitioner to patients whose medication needs may be long term but who wish to store limited quantities or in situations where the pharmacy is unable to supply the full quantity prescribed.
(b) The necessity of this administrative regulation: KRS 218A.250 requires the Cabinet for Health and Family Services to promulgate administrative regulations for carrying out the provisions of KRS Chapter 218A relating to controlled substances. KRS 218A.180 (1) calls for regulations to be promulgated by the cabinet for facsimile prescriptions. This is not a new regulation, but it does contain amendments that will clean up certain provisions to align with revisions made to related statute KRS 218A.180, and provisions in federal regulation 21 C.F.R. 1306.13.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218A.180(1) calls for regulations to be promulgated by the cabinet for facsimile prescriptions. This regulation clarifies the following topics which are authorized by KRS 218A.180: Oral Prescription Only for Immediate Administration, Transmission by Facsimile of a Prescription for a Schedule II Controlled Substance, Partial Filling of a Prescription for a Schedule II Controlled Substance.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation defines terms used in KRS 218A.180 to clarify the applicable healthcare facility types, the conditions under which oral and facsimile prescriptions for Schedule II controlled substances would be allowed, and the conditions under which partial filling of a prescription for a Schedule II controlled substance would be allowed. This regulation provides guidance for Oral Prescription Only for Immediate Administration, Transmission by Facsimile of a Prescription for a Schedule II Controlled Substance, and Partial Filling of a Prescription for a Schedule II Controlled Substance, which is authorized by KRS 218A.180.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The proposed changes to 905 KAR 55:095 aligns these regulations with the addition of the term "electronic" prescriptions, which was previously added to KRS 218A.180 but never added to 905 KAR 55:095. Further, the proposed amendment adds references to "902 KAR 55:105 and 902 KAR 55:130" to clarify written, facsimile, oral, and electronic prescription requirements. Federal regulations were already referenced. Kentucky regulations are being added for completeness. Additionally, the proposed amendment eliminates permission to create a new prescription number for the partial dispensing of a Schedule II prescription which is in conflict with federal regulation 21 C.F.R. 1306.13 that prohibits this action.
(b) The necessity of the amendment to this administrative regulation: This amendment is to be considered a "clean-up" to the previous administrative regulation and aligns the regulation with statute.
(c) How the amendment conforms to the content of the authorizing statutes: Kentucky statute KRS 218A.180 (1) requires oral or facsimile prescriptions dispensed only per administrative regulation. This administrative regulation provides that guidance.
(d) How the amendment will assist in the effective administration of the statutes: The proposed changes to 905 KAR 55:095 aligns these regulations with the addition of the term "electronic" prescriptions, which was previously added to KRS 218A.180 but never added to 905 KAR 55:095. Additionally, the proposed amendment adds references to "902 KAR 55:105 and 902 KAR 55:130" to clarify written, facsimile, oral, and electronic prescription requirements. Federal regulations were already referenced. Kentucky regulations are being added for completeness. Furthermore, the proposed amendment eliminates permission to create a new prescription number for the partial dispensing of a Schedule II prescription which is in conflict with federal regulation 21 C.F.R. 1306.13 that prohibits this action.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation applies to pharmacies and pharmacists, authorized prescribers of Schedule II controlled substances, hospice programs, and long-term care facilities (as defined by KRS 216.535, excluding a family care home, assisted living community as defined in KRS 194A.700, or personal care home).
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No additional actions will be necessary.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No additional cost will be required as a result of this amendment.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): This amendment to this administrative regulation will only align regulation with statute.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No additional expenditure is expected.
(b) On a continuing basis: No additional expenditure is anticipated.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: N/A
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be no increase in fees in the implementation of this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established by this administrative regulation.
(10) TIERING: Is tiering applied? Tiering is not applied by this regulation

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, KRS 218A.250, KRS 218A.180(1) and 218.180(4)
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Inspector General, Division of Audits and Investigations.
(a) Estimate the following for the first year:
Expenditures: No additional expenditures are anticipated.
Revenues: No additional revenue is anticipated.
Cost Savings: No additional cost savings is anticipated. (b) How will expenditures, revenue, or cost savings differ in subsequent years? N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Additional expenditures, revenues or cost savings aren't anticipated from the change to this administrative regulation.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Prescribers, pharmacies, entities who enforce compliance with laws to provide controlled substances.
(a) Estimate the following for the first year:
Expenditures: No additional expenditures are anticipated from the amendment of this administrative regulation.
Revenues: No additional revenue is anticipated from this

administrative regulation.
Cost Savings: No additional cost savings is anticipated from the amendment of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, or cost savings will not differ in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3):
(a) Estimate the following for the first year:
Expenditures: No additional expenditures are anticipated by the change to this administrative regulation.
Revenues: Additional revenue isn't expected by the amendment to this administrative regulation.
Cost Savings: No change in cost is anticipated by the update to this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues, or cost savings will not differ in subsequent years.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: This administrative regulation is considered a "clean-up" and will have no fiscal impact on any party involved.
(b) Methodology and resources used to determine the fiscal impact: N/A
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) This administrative regulation is anticipated to have no impact on any party involved.
(b) The methodology and resources used to reach this conclusion: N/A.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Audits and Investigations
(Amendment)

902 KAR 55:110. Monitoring system for prescription controlled substances.

RELATES TO: KRS 72.026, 216B.015(13), 218A.010(12), (40), 218A.202(3), 218A.205(2)(a), (6), 218A.240(7)(a), 42 C.F.R. Part 2
STATUTORY AUTHORITY: KRS 194A.050, 218A.202(1), (18), 218A.250
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.202(1) directs the Cabinet for Health and Family Services to establish and maintain an electronic system for monitoring Schedule II, III, IV, and V controlled substances. KRS 218A.250 requires the cabinet to promulgate administrative regulations pursuant to KRS Chapter 13A for carrying out the provisions of KRS Chapter 218A. This administrative regulation establishes criteria for reporting prescription data, establishes procedures to correct errors, and allows for disclosure of data to authorized persons.

Section 1. Definitions.
(1) "Branch" means the Drug Enforcement and Professional Practices Branch in the Division of Audits and Investigations, Office of Inspector General, Cabinet for Health and Family Services.
(2) "Cabinet personnel" means an individual who:
(a)
1. Is directly employed by the Cabinet for Health and Family Services; or
2. Is employed by an agent or contractor of the cabinet;
(b) Has undergone KASPER training; and
(c) Has been approved to use the KASPER system.
(3) "Central registry" is an entity defined by 908 KAR 1:374, Section 1(3) that may report information to KASPER on behalf of a narcotic treatment program.
(4) "Dispenser" is defined by KRS 218A.010(12), and:
(a) Includes a dispenser who has a DEA (Drug Enforcement Administration) number or is a pharmacist who owns or is employed by a facility that operates a pharmacy that has a DEA number;
(b) Includes a narcotic treatment program licensed pursuant to 908 KAR 1:374; and
(c) Does not include administration by an individual licensed to practice veterinary medicine under KRS Chapter 321.
(d) Individuals licensed to practice veterinary medicine under KRS Chapter 321 are required to report medication dispensed to ultimate users.
(5) "Health facility" is defined by KRS 216B.015(13).
(6) "KASPER" means Kentucky All-Schedule Prescription Electronic Reporting System.
(7) "Patient identifier" means a patient's:
(a) Full name;
(b) Address, including zip code;
(c) Date of birth; and
(d) Social Security number or an alternative identification number established pursuant to Section 5 of this administrative regulation.
(8) "Practitioner" is defined by KRS 218A.010(40).
(9) "Report" means a compilation of data concerning a patient, dispenser, practitioner, or controlled substance.
(10) "Suspected drug overdose" means an acute condition that:
(a) Includes conditions such as physical illness, coma, mania, or hysteria that is the result of consumption or use of a controlled substance, or another substance with which a controlled substance was combined; and
(b) Relates to injury or poisoning by any substance corresponding to the following International Classification of Disease (ICD) version 10 (ICD-10) codes available at https://www.cms.gov/Medicare/Coding/ICD10:
1. T40;
2. T42; or
3. T43.

Section 2. Data Reporting.
(1) A dispenser or a health facility that has a DEA number shall report all dispensed Schedule II, III, IV, or V controlled substances, except:
(a) During the circumstances specified in KRS 218A.202(3)(b)(1) through (b)(3)[~~218A.202(3)(a) through (c)~~]; or
(b) If the controlled substance is dispensed by a narcotic treatment program for use to treat substance use disorder and the patient has not provided written consent that meets the requirements of 42 C.F.R. 2.31.
(2) A dispenser of a Schedule II, III, IV, or V controlled substance shall transmit or provide the following data to the cabinet or the cabinet's agent:
(a) Patient identifier;
(b) National drug code of the drug dispensed;
(c) Metric quantity of the drug dispensed;
(d) Date of dispensing;
(e) Estimated days the supply of dispensed medication will last;
(f) Drug Enforcement Administration registration number of the prescriber;
(g) Prescription number or dispensing identification number assigned by the dispenser or health facility; and
(h) The Drug Enforcement Administration registration number of the dispenser.
(3) The data identified in subsection (2) of this section shall be transmitted no later than close of business on the business day immediately following the dispensing unless the cabinet grants an extension as provided in subsection (4) or (5) of this section.
(4)
(a) An extension may be granted if the dispenser, health facility, or central registry:

1. Suffers a mechanical or electronic failure; or

2. Cannot meet the deadline established by subsection (3) of this section because of reasons beyond his or her control.

(b) To request an extension, a written request shall:

1. Be submitted to the branch:

a. Within twenty-four (24) hours of discovery of the circumstances necessitating the request; or

b. If state offices are closed, on the next day that state offices are open for business following discovery of the circumstances necessitating the request; and

2. Provide a justification for the extension, including the length of time the extension is necessary.

(5) An extension shall be granted if the cabinet or its agent is unable to receive electronic reports transmitted by the dispenser.

(6) Except as provided in subsection (8) of this section, the data shall be transmitted by:

(a) An electronic device compatible with the receiving device of the cabinet or the cabinet's agent;

(b) Secure File Transfer Protocol;

(c) https protocol; or

(d) Secure Virtual Private Network connection.

(7) The data shall be transmitted in the telecommunications format for controlled substances established by the most recent version of the Implementation Guide, ASAP Standard for Prescription Monitoring Programs, developed by the American Society for Automation in Pharmacy available at asapnet.org, or a comparable format approved by the branch.

(8) A dispenser who does not have an automated recordkeeping system capable of producing an electronic report in the telecommunications format for controlled substances established by the Implementation Guide, ASAP Standard for Prescription Monitoring Programs shall report the data identified in subsection (2) of this section using an Internet accessible web portal designated by the cabinet.

(9) To meet the reporting requirement of KRS 218A.202(3)(c)[~~218A.202(4)~~], a hospital shall report to the cabinet all positive toxicology screens ordered by the hospital's emergency department to evaluate a patient's suspected drug overdose via the Kentucky Health Information Exchange.

Section 3. Compliance. A dispenser may presume that the patient identification information provided by the patient or the patient's agent in accordance with Section 5 of this administrative regulation is correct.

Section 4. Request for Report.

(1) A written or electronic request shall be filed with the cabinet prior to the release of a report, except for a subpoena issued by a grand jury or an appropriate court order issued by a court of competent jurisdiction.

(2) A request for a KASPER patient report shall be made electronically at www.chfs.ky.gov/KASPER.

(3)

(a) A request for a KASPER provider report made by a law enforcement or prosecutorial official authorized to receive data under KRS 218A.202, or a designated representative of a board responsible for the licensure, regulation, or discipline of prescribing practitioners shall be made by written application on the KASPER Report Request for Law Enforcement and Licensure Boards, Form DCB-20L.

(b) If the request made by a law enforcement or prosecutorial official authorized to receive data under KRS 218A.202 is for KASPER data on dispensing of controlled substances by a narcotic treatment program to treat substance use disorder, a report shall not be disclosed to the official unless there is a valid court order and subpoena requiring the release of the information and all other applicable provisions of 42 C.F.R. Part 2, Subpart E are met.

(4) A medical examiner engaged in a death investigation pursuant to KRS 72.026 may query KASPER for a report on the decedent.

Section 5. Patient Identification Number.

(1) A patient or the person obtaining the controlled substance on behalf of the patient shall disclose to the dispenser the patient's Social Security number for purposes of the dispenser's mandatory reporting to KASPER.

(2) If a patient is an adult who does not have a Social Security number, the patient's driver's license number shall be disclosed.

(3) If a patient is an adult who has not been assigned a Social Security number or a driver's license number, the number 000-00-0000 shall be used in the Social Security field.

(4) If a patient is a child who does not have a Social Security number or a driver's license number, the number "000-00-0000" shall be used in the Social Security field.

(5) If a patient is an animal, the number "000-00-0000" shall be used in the Social Security number field.

Section 6. KASPER Data and Trend Reports. Cabinet personnel shall have authorized access to the data obtained from the KASPER system and trend reports in accordance with KRS 218A.240(7)(a).

Section 7. Data Retention. Data shall be maintained in KASPER according to the Office of Inspector General's retention schedule on file with the State Libraries, Archives and Records Commission.

Section 8. Error Resolution.

(1) A patient, patient's representative, practitioner, pharmacist, health facility, or private practitioner's office or clinic to whom a report has been disclosed under KRS 218A.202(3)[~~(9)~~] or this administrative regulation may request that information contained in KASPER be corrected if the patient, patient's representative, practitioner, pharmacist, health facility, or private practitioner's office or clinic believes that any information is inaccurate. The patient, patient's representative, practitioner, pharmacist, health facility, or private practitioner's office or clinic shall:

(a) Contact the dispenser who reported the information required by Section 2(2) of this administrative regulation; and

(b) Request that the dispenser correct the information.

(2) If, upon receipt of a request from a patient, patient's representative, practitioner, pharmacist, health facility, or private practitioner's office or clinic pursuant to subsection (1) of this section, the dispenser confirms that the information was reported in error, the dispenser shall:

(a) Transmit corrected information to update the KASPER database within seven (7) calendar days of the request for the correction; and

(b) Notify the patient, patient's representative, practitioner, pharmacist, health facility, or private practitioner's office or clinic that the corrected information has been transmitted.

(3) If a dispenser identifies a KASPER system generated error, the dispenser shall notify the branch. Upon verification of the error, the branch shall:

(a) Correct the information in the KASPER database; and

(b) Notify the patient, patient's representative, practitioner, pharmacist, health facility, private practitioner's office or clinic within five (5) working days of the correction.

Section 9. Referrals to Licensing Boards. If the cabinet becomes aware that a prescriber or dispenser has failed to comply with the reporting requirements of KRS 218A.202 and this administrative regulation, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser.

Section 10. Disclosure of Data or Report.

(1) The cabinet shall only disclose data to:

(a) The persons and entities authorized to receive that data under KRS 218A.202(3)(f)[~~(7)~~]; and

(b) The persons and entities authorized to receive data pursuant to 42 C.F.R. Part 2, Subparts C, D, and E if the data to be disclosed includes information on controlled substances dispensed by a narcotic treatment program for use to treat substance use disorder.

(2) As a condition precedent to the disclosure of data or a report pursuant to KRS 218A.202(3)[~~(7)(f)~~], a hospital or long-term care facility shall maintain, and provide upon request by the cabinet, a

copy of the hospital or long-term care facility's policy for the management of KASPER data and reports, which:

(a) Describes the hospital or long-term care facility's internal procedures for educating the designated employee or employees on the:

1. Proper use of the KASPER system;

2. Prohibition on the improper use or intentional disclosure of KASPER data to unauthorized individuals; and

3. Sanctions imposed for the improper use or intentional disclosure of KASPER data to unauthorized individuals, including criminal misdemeanor offenses; and

(b) Describes the hospital or long-term care facility's internal procedures for auditing the account, including:

1. The manner in which an employee is added to or removed from access to the account if the employee ends employment or is no longer designated to query KASPER; and

2. The actions taken if a designated employee with access to the employer's KASPER account intentionally misuses his or her privileges to KASPER data or a report, which shall include a report of the incident to the branch.

(3)

(a) An individual authorized to receive data under KRS 218A.202(3)[(7)] shall not provide the data to any other entity except:

1. As provided in KRS 218A.202(8)[(9)]; and

2. For substance use disorder treatment data, as provided in 42 C.F.R. 2.32; or

(b) As provided in paragraph (c) of this subsection.

(c) In addition to the purposes authorized under KRS 218A.202(3)[(9)(e)], and pursuant to KRS 218A.205(2)(a) and (6), a practitioner or pharmacist who obtains KASPER data or a report under KRS 218A.202(8)[(7)(e)1]. or who in good faith believes that any person, including a patient, has violated the law in attempting to obtain a prescription for a controlled substance, may report suspected improper or illegal use of a controlled substance to law enforcement or the appropriate licensing board.

(4) A hospital or long-term care facility shall maintain and adhere to the entity's internal policy regarding the management of KASPER data and reports.

Section 11. Incorporation by Reference.

(1) "KASPER Report Request for Law Enforcement and Licensure Boards", Form DCB-20L, October 2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Drug Enforcement and Professional Practices Branch, Office of the Inspector General, Cabinet for Health and Family Services, 275 E. Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web site at: https://chfs.ky.gov/agencies/os/oig/dai/deppb/Pages/kasper.aspx.

TRICIA STEWARD, Inspector General
STEVEN J STACK, MD, MBA, Secretary

APPROVED BY AGENCY: September 23, 2025

FILED WITH LRC: January 7, 2026 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026 at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Valerie Moore and Krista Quarles
Subject Headings: Drugs and Medicines, Veterinary Services, Animals: Domestic
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes criteria for reporting prescription data, establishes procedures to correct errors, and allows for disclosure of data to authorized persons.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 218A.202 and 42 C.F.R Part 2.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 218A.202 by establishing criteria for reporting prescription data and establishing related procedures and protections of the data.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER) and related procedures and data protections.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment of this regulation requires veterinarians to report dispensed controlled substances to KASPER; however, they would not be mandated to report medication administered.
(b) The necessity of the amendment to this administrative regulation: The changes to this regulation close a gap in controlled substance distribution that contributes to drug abuse and addiction in Kentucky.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 218A.202 requires the cabinet to establish and maintain an electronic prescription drug monitoring program to monitor dispensing of all controlled substances.
(d) How the amendment will assist in the effective administration of the statutes: This amendment treats veterinarians the same as all other providers who prescribe controlled substances in Kentucky.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All veterinarians in the Commonwealth of Kentucky. OIG does not license veterinarians so it is unknown how many people will be affected.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: In accordance with existing Kentucky law and federal regulations, veterinarians who prescribe narcotics will be required to report certain data regarding dispensed controlled substances to KASPER. They will be required to comply with the same reporting requirements that are already in place for other dispensers of controlled substances.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): Veterinarians will have to obtain an electronic device and any software necessary to allow them to transmit the required data
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Veterinarians will have to obtain an electronic

device and any software necessary to allow them to transmit the required data
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will not be any additional cost to the regulating body.
(b) On a continuing basis: The continuing costs will be minimal as the additional data will be included in the ongoing KASPER work.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: This program is already operational utilizing general funds; no additional cost is anticipated.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fee is charge to providers for KASPER use and this amendment does not implement a fee.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment does not establish or increase any fees.
(10) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218A.202, 218A.250, and 42 C.F.R. Part 2.
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Office of Inspector General (OIG) Division of Audits and Investigations. This amended regulation would affect anyone prescribing controlled substances in Kentucky, the amendment specifically adds veterinarians.
(a) Estimate the following for the first year:
Expenditures: No additional funds are anticipated.
Revenues: This administrative regulation will not generate revenue for state or local government.
Cost Savings: There is no anticipated cost savings.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There is no anticipated expenditure, revenue or cost savings as a result of this amendment.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Any provider who prescribes narcotics to humans or animals in Kentucky.
(a) Estimate the following for the first year:
Expenditures: Those who don't currently have the electronic devices and software capability would be required to purchase that equipment to transmit the data. It is unknown which affected entities would not currently have access to this equipment and software.
Revenues: No additional revenue is anticipated.
Cost Savings: No cost savings is anticipated.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There are no additional expenditures, revenues or cost savings to cause a difference in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3): N/A
(a) Estimate the following for the first year:
Expenditures: N/A
Revenues: N/A
Cost Savings: N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact from this amendment.
(b) Methodology and resources used to determine the fiscal impact: No additional resources will be utilized resulting in no fiscal impact.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) It is expected that most Narcotic Treatment Programs (NTPs) already have the electronic devices and software capability necessary to transmit the required data, so any costs to regulated entities are expected to be minor. The cabinet does not believe this amendment will have a major economic impact on the regulated entities.
(b) The methodology and resources used to reach this conclusion: Considering a majority of providers already have electronic devices and software capabilities necessary to transmit the required data so costs would be considered minor. There are no other methodology or resources to be used to reach this conclusion.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 C.F.R Part 2
(2) State compliance standards. KRS 218A.202
(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. Part 2
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does impose stricter requirements than federal laws or regulations. There is no federal requirement to report the dispensing of any controlled substances to prescription drug monitoring programs. The reporting requirement is in state law, KRS 218A.202.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. It is required by state law.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Healthcare Policy
(Amendment)

907 KAR 3:005. Coverage of physicians' services.

RELATES TO: KRS 205.510, [~~205.520, 205.560, ~~]205.622, 205.8451, 311.840-311.862, 314.011, 369.101-369.120, 42 C.F.R. 400.203, 413.75(b), 415.174, 415.184, 431.17, 438.2, 440.40(b), 440.50, 441.20, 441.200-441.208, 441.250-441.259, 447.26, 455.410, Part 493, 45 C.F.R. Parts 160, 164, 42 U.S.C. 1320 - 1320d-8, 1396a(a)(19), (30), 1396r-8(a)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(1)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid program coverage provisions and requirements relating to physicians' services.

Section 1. Definitions.

(1) "Advanced practice registered nurse" or "APRN" is defined by KRS 314.011(7).

(2) "Behavioral health practitioner under supervision" means an individual who is:

(a)

1. A licensed psychological associate;
2. A licensed professional counselor associate;
3. A certified social worker;
4. A marriage and family therapy associate;
5. A licensed professional art therapist associate;
6. A licensed assistant behavior analyst;
7. A licensed clinical alcohol and drug counselor associate;
8. A certified psychologist; or

9. A certified alcohol and drug counselor; and

(b) Employed by or under contract with the same billing provider as the billing supervisor.

(3) "Common practice" means an arrangement through which a physician assistant administers health care services under the supervision of a physician via a supervisory relationship that has been approved by the Kentucky Board of Medical Licensure.

(4) "CPT code" means a code used for reporting procedures and services performed by medical practitioners and published annually by the American Medical Association in Current Procedural Terminology.

(5) "Department" means the Department for Medicaid Services or its designee.

(6) "Designated controlled substance provider" means the provider designated as a lock-in recipient's controlled substance prescriber:

(a) Pursuant to 907 KAR 1:677, if the recipient is not an enrollee; or

(b) As established by the managed care organization in which the lock-in recipient is enrolled, if the lock-in recipient is an enrollee.

(7) "Designated primary care provider" means the provider designated as a lock-in recipient's primary care provider:

(a) Pursuant to 907 KAR 1:677, if the recipient is not an enrollee; or

(b) As established by the managed care organization in which the lock-in recipient is enrolled, if the lock-in recipient is an enrollee.

(8) "Direct physician contact" means that the billing physician is physically present with and evaluates, examines, treats, or diagnoses the recipient.

(9) "Early and periodic screening and diagnosis and treatment" or "EPSDT" is defined by 42 C.F.R. 440.40(b).

(10) "Emergency care" means:

(a) Covered inpatient or outpatient services furnished by a qualified provider that are needed to evaluate or stabilize an emergency medical condition that is found to exist using the prudent layperson standard; or

(b) Emergency ambulance transport.

(11) "Enrollee" means a recipient who is enrolled with a managed care organization.

(12) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(13) "Global period" means the period of time in which related preoperative, intraoperative, and postoperative services and follow-up care for a surgical procedure are customarily provided.

(14) "Graduate medical education program" or "GME program" means:

(a) A residency program approved by:

1. The Accreditation Council for Graduate Medical Education of the American Medical Association;

2. The Committee on Hospitals of the Bureau of Professional Education of the American Osteopathic Association;

3. The Commission on Dental Accreditation of the American Dental Association; or

4. The Council on Podiatric Medicine Education of the American Podiatric Medical Association; or

(b) An approved medical residency program as defined by 42 C.F.R. 413.75(b).

(15) "Incidental" means that a medical procedure:

(a) Is performed at the same time as a primary procedure; and

(b)

1. Requires little additional resources; or

2. Is clinically integral to the performance of the primary procedure.

(16) "Integral" means that a medical procedure represents a component of a more complex procedure performed at the same time.

(17) "Lock-in recipient" means:

(a) A recipient enrolled in the lock-in program in accordance with 907 KAR 1:677; or

(b) An enrollee enrolled in a managed care organization's lock-in program pursuant to 907 KAR 17:020, Section 6.

(18) "Locum tenens APRN" means an APRN:

(a) Who temporarily assumes responsibility for the professional practice of a physician participating in the Kentucky Medicaid program; and

(b) Whose services are billed under the APRN's provider number.

(19) "Locum tenens physician" means a substitute physician:

(a) Who temporarily assumes responsibility for the professional practice of a physician participating in the Kentucky Medicaid program; and

(b) Whose services are paid under the participating physician's provider number.

(20) "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined by 42 C.F.R. 438.2.

(21) "Medicaid basis" means a scenario in which:

(a) A provider provides a service to a recipient as a Medicaid-participating provider in accordance with:

1. 907 KAR 1:671; and

2. 907 KAR 1:672;

(b) The Medicaid program is the payer for the service; and

(c) The recipient is not liable for payment to the provider for the service other than any Medicaid cost sharing obligation owed by the recipient to the provider.

(22) "Medical necessity" or "medically necessary" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

(23) "Medical resident" means:

(a) An individual who participates in an approved graduate medical education (GME) program in medicine or osteopathy; or

(b) A physician who is not in an approved GME program, but who is authorized to practice only in a hospital, including:

1. An individual with a:

a. Temporary license;

b. Resident training license; or

c. Restricted license; or

2. An unlicensed graduate of a foreign medical school.

(24) "Mutually exclusive" means that two (2) procedures:

(a) Are not reasonably performed in conjunction with each other during the same patient encounter on the same date of service;

(b) Represent two (2) methods of performing the same procedure;

(c) Represent medically impossible or improbable use of CPT codes; or

(d) Are described in Current Procedural Terminology as inappropriate coding of procedure combinations.

(25) "Non-Medicaid basis" means a scenario in which:

(a) A provider provides a service to a recipient;

(b) The Medicaid program is not the payer for the service; and

(c) The recipient is liable for payment to the provider for the service.

(26) "Other licensed medical professional" means a health care provider:

(a) Other than a physician, physician assistant, advanced practice registered nurse, certified registered nurse anesthetist, nurse midwife, or registered nurse; and

(b) Who has been approved to practice a medical specialty by the appropriate licensure board.

(27) "Other provider preventable condition" is defined by 42 C.F.R. 447.26(b).

(28) "Physician administered drug" or "PAD" means any rebateable covered outpatient drug that is:

(a) Provided or administered to a Medicaid recipient;

(b) Billed by a provider other than a pharmacy provider through the medical benefit, including a provider that is a physician office or another outpatient clinical setting; and

(c) An injectable or non-injectable drug furnished incident to provider services that are billed separately to Medicaid.

(29) "Physician assistant" is defined by KRS 311.840(3).

(30) "Podiatrist" is defined by KRS 205.510(12).

(31) "Provider group" means at least one licensed physician[~~a group of at least two (2) individually licensed physicians~~] who:

(a) Is[~~Are~~] enrolled with the Medicaid program individually and as a group; and

(b) Share the same Medicaid group provider number, if more than one physician is in the group.

(32) "Rebateable" means a drug for which the drug manufacturer has entered into and has in effect a rebate agreement in accordance with 42 U.S.C. 1396r-8(a).

(33) "Recipient" is defined by KRS 205.8451(9).

(34) "Screening" means the evaluation of a recipient by a physician to determine:

(a) If a disease or medical condition is present; and

(b) If further evaluation, diagnostic testing, or treatment is needed.

(35) "Supervising physician" is defined by KRS 311.840(4).

(36) "Supervision" is defined by KRS 311.840(6).

(37) "Timely filing" means receipt of a Medicaid claim by the department:

(a) Within twelve (12) months of the date the service was provided;

(b) Within twelve (12) months of the date retroactive eligibility was established; or

(c) Within six (6) months of the Medicare adjudication date if the service was billed to Medicare.

(38) "Unlisted procedure or service" means a procedure or service:

(a) For which there is not a specific CPT code; and

(b) That is billed using a CPT code designated for reporting unlisted procedures or services.

Section 2. Conditions of Participation.

(1)

(a) A participating physician shall:

1. Be licensed as a physician in the state in which the medical practice is located;

2. Comply with the:

a. Terms and conditions established in 907 KAR 1:005, 907 KAR 1:671, and 907 KAR 1:672; and

b. Requirements regarding the confidentiality of personal records pursuant to 42 U.S.C. 1320d to 1320d-8 and 45 C.F.R. Parts 160 and 164;

3. Have the freedom to choose whether to provide services to a recipient; and

4. Notify the recipient referenced in paragraph (b) of this subsection of the provider's decision to accept or not accept the recipient on a Medicaid basis prior to providing any service to the recipient.

(b) A provider may provide a service to a recipient on a non-Medicaid basis:

1. If the recipient agrees in writing to receive the service on a non-Medicaid basis before the service begins; and

2. The service is not a Medicaid-covered service.

(c)

1. If a provider renders a Medicaid-covered service to a recipient, regardless of if the service is billed through the provider's Medicaid provider number or any other entity including a non-Medicaid provider, the recipient shall not be billed for the service.

2. The department shall terminate from Medicaid program participation a provider who participates in an arrangement in which an entity bills a recipient for a Medicaid-covered service rendered by the provider.

(2) If a provider agrees to provide services to a recipient, the provider:

(a) Shall bill the department rather than the recipient for a covered service;

(b) May bill the recipient for a service not covered by Medicaid if the physician informed the recipient of noncoverage prior to providing the service; and

(c) Shall not bill the recipient for a service that is denied by the department on the basis of:

1. The service being incidental, integral, or mutually exclusive to a covered service or within the global period for a covered service;

2. Incorrect billing procedures, including incorrect bundling of services;

3. Failure to obtain prior authorization for the service; or

4. Failure to meet timely filing requirements.

(3)

(a) If a provider receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and

2. Prosecuted in accordance with applicable federal or state law.

(4)

(a) A provider shall maintain a current health record for each recipient.

(b)

1. A health record shall document each service provided to the recipient including the date of the service and the signature of the individual who provided the service.

2. The individual who provided the service shall date and sign the health record within seventy-two (72) hours from the date that the individual provided the service.

(5)

(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least five (5) years from the date of the service or until any audit dispute or issue is resolved beyond five (5) years.

(b) If the secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(6) A provider shall comply with 45 C.F.R. Part 164.

Section 3. Covered Services.

(1) To be covered by the department, a service shall be:

(a) Medically necessary;

(b) Clinically appropriate pursuant to the criteria established in 907 KAR 3:130;

(c) Except as provided in subsection (2) of this section, furnished to a recipient through direct physician contact; and

(d) Eligible for reimbursement as a physician service.

(2) Direct physician contact between the billing physician and recipient shall not be required for:

(a) A service provided by a:

1. Medical resident if provided under the direction of a program participating teaching physician in accordance with 42 C.F.R. 415.174 and 415.184;

2. Locum tenens physician who provides direct physician contact;

3. Physician assistant in accordance with Section 7 of this administrative regulation; or

4. Locum tenens APRN who provides direct APRN contact;

(b) A radiology service, imaging service, in office lab, pathology service, ultrasound study, echographic study, electrocardiogram, electromyogram, electroencephalogram, vascular study, or other service that is usually and customarily performed without direct physician contact;

(c) The telephone analysis of emergency medical systems or a cardiac pacemaker if provided under physician direction;

(d) A sleep disorder service; or

(e) A telehealth consultation provided in accordance with 907 KAR 3:170.

(3) A service provided by another licensed medical professional shall be covered if the other licensed medical professional is:

(a) Employed by the supervising physician; and

(b) Licensed in the state of practice.

[~~(4)~~] [~~A sleep disorder service shall be covered if performed in:~~]

[~~(a)~~] [~~A hospital; or~~]

[~~(b)~~] [~~A sleep laboratory if the sleep laboratory has documentation demonstrating that it complies with criteria approved by the:~~]

[~~1.~~] [~~American Sleep Disorders Association; or~~]

[~~2.~~] [~~American Academy of Sleep Medicine.~~]

Section 4. Service Limitations.

(1) A covered service provided to a lock-in recipient shall be limited to a service provided by the lock-in recipient's designated primary care provider or designated controlled substance provider unless:

(a) The service represents emergency care; or

(b) The lock-in recipient has been referred to the provider by the lock-in recipient's designated primary care provider.

(2) An EPSDT screening service shall be covered in accordance with 907 KAR 11:034.

(3) A laboratory procedure performed in a physician's office shall be limited to a procedure for which the physician has been certified in accordance with 42 C.F.R. Part 493.

(4) A drug listed on the Physician Administered Drug List shall be covered in accordance with 907 KAR 23:010.

(5) A service allowed in accordance with 42 C.F.R. 441, Subpart E (441.200 to 441.208) or Subpart F (441.250 to 441.259 and the Appendix to Subpart F), shall be covered within the scope and limitations of 42 C.F.R. 441, Subpart E and Subpart F.

(6)

(a) Except as provided in paragraph (b) of this subsection, coverage for a service designated as a psychiatry service CPT code and provided by a physician shall be limited to four (4) services, per physician, per recipient, per twelve (12) months.

(b) Coverage for a service designated as a psychiatry service CPT code that is provided by a board certified or board eligible psychiatrist or by an advanced practice registered nurse with a specialty in psychiatry shall not be subject to the limits established in paragraph (a) of this subsection.

(7) [~~Coverage for an evaluation and management service shall be limited to one (1) per physician, per recipient, per date of service.~~]

[~~(8)~~] Coverage for a fetal diagnostic ultrasound procedure shall be limited to two (2) per nine (9) month period per recipient unless the diagnosis code justifies the medical necessity of an additional procedure.

(8)[~~(9)~~] An anesthesia service shall be covered if:

(a) Administered by:

1. An anesthesiologist who remains in attendance throughout the procedure; or

2. An individual who:

a. Is licensed in Kentucky to practice anesthesia;

b. Is licensed in Kentucky within his or her scope of practice; and

c. Remains in attendance throughout the procedure;

(b) Medically necessary; and

(c) Not provided as part of an all-inclusive CPT code.

(9)[~~(10)~~] The following shall not be covered:

(a) An acupuncture service;

(b) An autopsy;

(c) A cast or splint application in excess of the limits established in 907 KAR 3:010;

(d) Except for therapeutic bandage lenses, contact lenses;

(e) A hysterectomy performed for the purpose of sterilization;

(f) Lasik surgery;

(g) Paternity testing;

(h) A procedure performed for cosmetic purposes only;

(i) A procedure performed to promote or improve fertility;

(j) Radial keratotomy;

(k) A thermogram;

(l) An experimental service that is not in accordance with current standards of medical practice;

(m) A service that does not meet the requirements established in Section 3(1) of this administrative regulation; or

(n) Medical assistance for another provider preventable condition in accordance with 907 KAR 14:005.

(10)[~~(11)~~]

(a) In accordance with 42 C.F.R. 455.410, to prescribe medication, order a service for a recipient, or refer a recipient for a service, a provider shall be currently enrolled and participating in the Medicaid program.

(b) The department shall not reimburse for a:

1. Prescription prescribed by a provider that is not currently:

a. Participating in the Medicaid program pursuant to 907 KAR 1:671; and

b. Enrolled in the Medicaid program pursuant to 907 KAR 1:672; or

2. Service:

a. Ordered by a provider that is not currently:

(i) Participating in the Medicaid program pursuant to 907 KAR 1:671; and

(ii) Enrolled in the Medicaid program pursuant to 907 KAR 1:672; or

b. Referred by a provider that is not currently:

(i) Participating in the Medicaid program pursuant to 907 KAR 1:671; and

(ii) Enrolled in the Medicaid program pursuant to 907 KAR 1:672.

Section 5. Prior Authorization Requirements for Recipients Who are Not Enrolled with a Managed Care Organization.

(1) Except as provided by subsection (3) of this section, the following procedures for a recipient who is not enrolled with a managed care organization shall require prior authorization by the department:

(a) Magnetic resonance imaging;

(b) Magnetic resonance angiogram;

(c) Magnetic resonance spectroscopy;

(d) Positron emission tomography;

(e) Cineradiography or videoradiography;

(f) Xeroradiography;

(g) Ultrasound subsequent to second obstetric ultrasound;

(h) Myocardial imaging;

(i) Cardiac blood pool imaging;

(j) Radiopharmaceutical procedures;

(k) Gastric restrictive surgery or gastric bypass surgery;

(l) A procedure that is commonly performed for cosmetic purposes;

(m) A surgical procedure that requires completion of a federal consent form;

(n) An organ transplant in accordance with 907 KAR 1:350;

(o) Genetic testing; or

(p)[~~(o)~~] A covered unlisted procedure or service.

(2)

(a) Prior authorization by the department shall not be a guarantee of recipient eligibility.

(b) Eligibility verification shall be the responsibility of the provider.

(3) The prior authorization requirements established in subsection (1) of this section shall not apply to:

(a) An emergency service;

(b) A radiology procedure if the recipient has a cancer or transplant diagnosis code; or

(c) A service provided to a recipient in an observation bed.

(4) A referring physician, a physician who wishes to provide a given service, a podiatrist, a chiropractor, or an advanced practice registered nurse:

(a) May request prior authorization from the department; and

(b) If requesting prior authorization, shall request prior authorization by:

1. [~~Mailing or faxing:~~]

a. A written request to the department with information sufficient to demonstrate that the service meets the requirements established in Section 3(1) of this administrative regulation; and

b. If applicable, any required federal consent forms; or

2. Submitting a request via the department's web-based portal with information sufficient to demonstrate that the service meets the requirements established in Section 3(1) of this administrative regulation.

Section 6. [~~Therapy Service Limits.~~]

[~~(1)~~] [~~Speech-language pathology services shall be limited to twenty (20) service visits per recipient per calendar year, except as established in subsection (4) of this section.~~]

[~~(2)~~] [~~Physical therapy services shall be limited to twenty (20) service visits per recipient per calendar year, except as established in subsection (4) of this section.~~]

[(3)] [Occupational therapy services shall be limited to twenty (20) service visits per recipient per calendar year, except as established in subsection (4) of this section.]

[(4)] [A service in excess of the limits established in subsection (1), (2), or (3) of this section shall be:]

[(a)] [Prior authorized in accordance with subsection (5) of this section if the recipient is not enrolled with a managed care organization; and]

[(b)] [Approved if the additional service is determined to be medically necessary by:]

[1.] [The department, if the recipient is not enrolled with a managed care organization; or]

[2.] [The managed care organization in which the enrollee is enrolled, if the recipient is an enrollee.]

[(5)] [Prior authorization by the department shall be required for each service visit that exceeds the limit established in subsection (1), (2), or (3) of this section for a recipient who is not enrolled with a managed care organization.]

[Section 7.] Physician Assistant Services.

(1) Except for a service limitation specified in subsection (2) or (3) of this section, a service provided by a physician assistant in common practice with a Medicaid-enrolled physician shall be covered if:

(a) The service meets the requirements established in Section 3(1) of this administrative regulation;

(b) The service is within the legal scope of certification of the physician assistant;

(c) The service is approved in the contractual supervisory relationship between the physician assistant, their supervising physician, and the Kentucky Board of Medical Licensure; and

(d) The physician assistant complies with:

1. KRS 311.840 to 311.862; and

2. If applicable, Section 2(1)(b) of this administrative regulation.

(2) A same service performed by a physician and either a physician assistant or an APRN on the same day within a common practice shall be considered as one (1) covered service.

(3) The following physician assistant services shall not be covered:

(a) A physician noncovered service specified in Section 4(10) of this administrative regulation;

(b) An anesthesia service;

(c) An obstetrical delivery service; or

(d) A service provided in assistance of surgery.

Section 7.[Section 8.] Behavioral Health Services Covered Pursuant to 907 KAR 15:010. The requirements and provisions established in 907 KAR 15:010 for a service covered pursuant to this administrative regulation and 907 KAR 15:010 shall apply if the service is provided by:

(1) A physician who is the billing provider;

(2) A provider group that is the billing provider; or

(3) A behavioral health practitioner under supervision who works for a:

(a) Physician who is the billing provider; or

(b) Provider group that is the billing provider.

Section 8.[Section 9.] Duplication of Service Prohibited.

(1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered during the same time period.

(2) For example, if a recipient is receiving a speech-language pathology service from a speech-language pathologist enrolled with the Medicaid program, the department shall not reimburse for the same service provided to the same recipient during the same time period via the physicians' services program.

Section 9.[Section 10.] Third Party Liability. A provider shall comply with KRS 205.622.

Section 10.[Section 11.] Use of Electronic Signatures.

(1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 to 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;

2. Identify each electronic signature for which an individual has access; and

3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;

2. Attest to the signature's authenticity; and

3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;

2. The signed consent form; and

3. The original filed signature.

Section 11.[Section 12.] Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with the claim or medical record.

Section 12.[Section 13.] Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 13.[Section 14.] Appeal Rights. An appeal of a department decision regarding:

(1) A Medicaid recipient who is not enrolled with a managed care organization based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563; or

(2) An enrollee based upon an application of this administrative regulation shall be in accordance with 907 KAR 17:010.

LISA D. LEE, Commissioner
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: October 6, 2025
FILED WITH LRC: January 7, 2026 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott and Krista Quarles
Subject Headings: Medicaid, Health and Medical Services, Physicians and Practitioners
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the Medicaid program coverage provisions and requirements relating to physicians' services.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish Medicaid program coverage provisions and requirements relating to physicians' services.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing Medicaid program coverage provisions and requirements relating to physicians' services.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing Medicaid program coverage provisions and requirements relating to physicians' services.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment will change this administrative regulation by adding genetic testing to the list of procedures that require prior authorization for recipients who are not enrolled with a managed care organization and updating the definition of "provider group". Additionally, the following have been removed: Section 6 regarding therapy service limits; the coverage limit for an evaluation and management service (previously this was one per physician, per recipient, per date of service); and sleep disorder service from the list of covered services in Section 3.
(b) The necessity of the amendment to this administrative regulation: This amendment to this administrative regulation is necessary to update DMS policy relating to evaluation and management codes, sleep disorder services, the number of physicians that can enroll as a physician group, and departmental prior authorizations relating to genetic testing.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by ensuring adequate services and physician networks are available to Medicaid recipients.
(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by addressing the services provided by providers and physicians within the Medicaid program.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are more than 73,000 providers in the Medicaid program.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: There are no actions that will need to be taken for entities to comply.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional costs to entities.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Providers will no longer be limited by the coverage limit for an evaluation and management service.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There are no costs to implement this administrative regulation.
(b) On a continuing basis: There are no ongoing costs to implement this administrative regulation.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement the amendments to this administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.
(10) TIERING: Is tiering applied? Tiering is not applied in this administrative regulation because the administration regulation applies equally to all individuals and entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(1); 42 U.S.C. 1396a(a)(10)(B)
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family Services, Department for Medicaid Services
(a) Estimate the following for the first year:
Expenditures: N/A
Revenues: N/A
Cost Savings: N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There are no anticipated changes in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None identified
(a) Estimate the following for the first year:
Expenditures: N/A
Revenues: N/A
Cost Savings: N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A
(4) Identify additional regulated entities not listed in questions (2) or (3): None identified.
(a) Estimate the following for the first year:
Expenditures: N/A
Revenues: N/A
Cost Savings: N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There are no anticipated changes in subsequent years.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: DMS does not anticipate additional costs, expenditures, or revenues as a result of the amendments to this administrative regulation.
(b) Methodology and resources used to determine the fiscal impact: Departmental assessment of utilization patterns, nongovernmental payer experiences with evaluation and management services reimbursement, and anticipated improved treatment outcomes from appropriate utilization of utilization and management services.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: Departmental assessment of reimbursement associated with evaluation and management services.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(10)(B)
(2) State compliance standards. KRS 194A.030(2) requires the

Department for Medicaid Services to "serve as the single state agency in the commonwealth to administer Title XIX of the Federal Social Security Act.".
(3) Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid).
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter or different responsibilities than the federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Healthcare Policy
(Amendment)

907 KAR 3:010. Reimbursement for physicians' services.

RELATES TO: KRS 205.560, 205.565, 210.370-210.485, 311.840, 42 C.F.R. 400.203, Part 414, 415.110, 438.2, 440.50, 447.10, 447.200-447.205, 447.325, 42 U.S.C. 1395m, 1395w-4, 1395x(t)(1), 1396a, 1396b, 1396c, 1396d, 1396s
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the method of reimbursement for physicians' services by the Medicaid program.

Section 1. Definitions.
(1) "Add-on code" or "add-on service" means a service designated by a specific CPT code that may be used in conjunction with another CPT code to denote that an adjunctive service has been performed.
(2) "Anesthesia under medical direction" means a service that is:
(a) Directed by an anesthesiologist;
(b) Delivered by an appropriate and qualified anesthesia provider, including a certified registered nurse anesthetist; and
(c) Provided concurrently to no more than four (4) patients by the anesthesiologist.
(3) "Assistant surgeon" means a physician who attends and acts as an auxiliary to a physician performing a surgical procedure.
(4) "Community mental health center" means a facility that meets the community mental health center requirements established in 902 KAR 20:091.
(5) "CPT code" means a code used for reporting procedures and services performed by physicians and published annually by the American Medical Association in Current Procedural Terminology.
(6) "Department" means the Department for Medicaid Services or its designee.
(7) "Direct physician contact" means that the billing physician is physically present with and evaluates, examines, treats, or diagnoses the recipient.
(8) "Drug" means the definition of "drugs" pursuant to 42 U.S.C. 1395x(t)(1).
(9) "Federal financial participation" is defined by 42 C.F.R. 400.203.
(10) "Global period" means the period of time in which related preoperative, intraoperative, and postoperative services and follow-up care for a surgical procedure are customarily provided.
(11) "Healthcare common procedure coding system" means a collection of codes acknowledged by the Centers for Medicare and Medicaid Services (CMS) that represents procedures or items.
(12) "Incidental" means that a medical procedure:
(a) Is performed at the same time as a primary procedure; and
(b)
1. Requires little additional resources; or
2. Is clinically integral to the performance of the primary procedure.
(13) "Integral" means that a medical procedure represents a component of a more complex procedure performed at the same time.
(14) "Locum tenens physician" means a substitute physician:
(a) Who temporarily assumes responsibility for the professional practice of a physician participating in the Kentucky Medicaid program; and
(b) Whose services are paid under the participating physician's provider number.
(15) "Major surgery" means a surgical procedure assigned a ninety (90) day global period.
(16) "Managed care organization" means an entity for which the department has contracted to serve as a managed care organization as defined by 42 C.F.R. 438.2.
(17) "Medicaid Physician Fee Schedule" means a list, located at https://chfs.ky.gov/agencies/dms/Pages/feesrates.aspx, that:
(a) Contains the current reimbursement rates for physician services established by the department in accordance with this administrative regulation; and
(b) Is updated at least annually[~~quarterly~~] to include[~~coincide with~~] the [~~quarterly~~]updates made by the Centers for Medicare and Medicaid Services as required by 42 U.S.C. 1395m and 1395w-4 and 42 C.F.R. Part 414.
(18) "Minor surgery" means a surgical procedure assigned a ten (10) day global period.
(19) "Modifier" means a reporting indicator used in conjunction with a CPT code to denote that a medical service or procedure that has been performed has been altered by a specific circumstance while remaining unchanged in its definition or CPT code.
(20) "Mutually exclusive" means that two (2) procedures:
(a) Are not reasonably performed in conjunction with each other during the same patient encounter on the same date of service;
(b) Represent two (2) methods of performing the same procedure;
(c) Represent medically impossible or improbable use of CPT codes; or
(d) Are described in Current Procedural Terminology as inappropriate coding of procedure combinations.
(21) "Pediatric teaching hospital" is defined by KRS 205.565(1).
(22) "Physician administered drug" or "PAD" means any rebateable covered outpatient drug that is:
(a) Provided or administered to a Medicaid recipient;
(b) Billed by a provider other than a pharmacy provider through the medical benefit, including a provider that is a physician office or another outpatient clinical setting; and
(c) An injectable or non-injectable drug furnished incident to provider services that are billed separately to Medicaid.
(23) "Physician assistant" is defined by KRS 311.840(3).
(24) "Professional component" means the physician service component of a service or procedure that has both a physician service component and a technical component.
(25) "Provider group" means at least one licensed physician[~~a group of at least two (2) individually licensed physicians~~] who:
(a) Is[~~Are~~] enrolled with the Medicaid program individually and as a group; and
(b) Share the same Medicaid group provider number, if more than one physician is in the group.

(26) "Relative value unit" or "RVU" means the Medicare-established value assigned to a CPT code that takes into consideration the physician's work, practice expense, and liability insurance.

(27) "Resource-based relative value scale" or "RBRVS" means the product of the relative value unit (RVU) and a resource-based dollar conversion factor.

(28) "State university teaching hospital" means:

(a) A hospital that is owned or operated by a Kentucky state-supported university with a medical school; or

(b) A hospital:

1. In which three (3) or more departments or major divisions of the University of Kentucky or University of Louisville medical school are physically located and that are used as the primary (greater than fifty (50) percent) medical teaching facility for the medical students at the University of Kentucky or the University of Louisville; and

2. That does not possess only a residency program or rotation agreement.

(29) "Technical component" means the part of a medical procedure performed by a technician, inclusive of all equipment, supplies, and drugs used to perform the procedure.

(30) "Usual and customary charge" means the uniform amount that a physician charges the general public in the majority of cases for a specific medical procedure or service.

Section 2. Standard Reimbursement.

(1) Reimbursement for a covered service shall be made to:

(a) The individual participating physician who provided the covered service; or

(b) The physician:

1. In a provider group enrolled in the Kentucky Medicaid program; and

2. Who provided the covered service.

(2) Except as provided in subsection (3) of this section and Sections 3 through 11 of this administrative regulation, reimbursement for a covered service shall be the lesser of:

(a) The physician's usual and customary charge; or

(b) The amount specified in the Medicaid Physician Fee Schedule established in accordance with this administrative regulation.

(3) If there is not an established fee for a listed service in the Medicaid Physician Fee Schedule, the reimbursement shall be forty-five (45) percent of the usual and customary billed charge.

Section 3. Rates Established Using a Relative Value Unit and a Dollar Conversion Factor.

(1) Except for a service specified in Sections 4 through 10 of this administrative regulation:

(a) The rate for a non-anesthesia related covered service shall be established by multiplying RVU by a dollar conversion factor to obtain the RBRVS maximum amount specified in the Medicaid Physician Fee Schedule; and

(b) The rate for a covered anesthesia service shall be established by multiplying the dollar conversion factor (designated as X) by the sum of each specific procedure code RVU (designated as Y) plus the number of units spent on that specific procedure (designated as Z). A unit shall equal a fifteen (15) minute increment of time.

(2) The dollar conversion factor shall be:

(a) Fifteen (15) dollars and twenty (20) cents for a nondelivery related anesthesia service; or

(b) Twenty-nine (29) dollars and sixty-seven (67) cents for all non-anesthesia related services.

Section 4. Medicare Part B Covered Services. Reimbursement for a service covered under Medicare Part B shall be made in accordance with 907 KAR 1:006, Section 3.

Section 5. Services with a Modifier. Reimbursement for a service denoted by a modifier used in conjunction with a CPT code shall be as established in this section.

(1) A service reported with a two (2) digit modifier of "51" shall be reimbursed at fifty (50) percent of the fee listed on the Medicaid Physician Fee Schedule for the service.

(2) A professional component of a service reported by the addition of the two (2) digit modifier "26" shall be reimbursed at the product of:

(a) The Medicare value assigned to the physician's work; and

(b) The dollar conversion factor specified in Section 3(2) of this administrative regulation.

(3) A technical component of a service reported by the addition of the two (2) letter modifier "TC" shall be reimbursed at the product of:

(a) The Medicare value assigned to the practice expense involved in the performance of the procedure; and

(b) The dollar conversion factor specified in Section 3(2) of this administrative regulation.

(4) A bilateral procedure reported by the addition of the two (2) digit modifier "50" shall be reimbursed at 150 percent of the amount assigned to the CPT code.

(5) An assistant surgeon procedure reported by the addition of the two (2) digit modifier "80" shall be reimbursed at sixteen (16) percent of the allowable fee for the primary surgeon.

(6) A procedure performed by a physician acting as a locum tenens physician for a Medicaid-participating physician reported by the addition of the two (2) character modifier "Q6" shall be reimbursed at the Medicaid Physician Fee Schedule amount for the applicable CPT code.

(7) An evaluation and management telehealth consultation service provided by a telehealth provider or telehealth practitioner in accordance with 907 KAR 3:170 and reported by the appropriate letter modifier, as applicable, shall be reimbursed at the Medicaid Physician Fee Schedule amount for the applicable evaluation and management CPT code.

(8) A level II national healthcare common procedure coding system modifier designating a location on the body shall be reimbursed at the Medicaid Physician Fee Schedule amount for the applicable code.

Section 6. Laboratory, Venipuncture, and Catheter.

(1) Except for a service specified in paragraph (a) or (b) of this subsection, a physician laboratory service shall be reimbursed in accordance with 907 KAR 1:028.

(a) Charges for a laboratory test performed by dipstick or reagent strip or tablet in a physician's office shall be included in the office visit charge.

(b) A routine venipuncture procedure shall not be separately reimbursed if submitted with a charge for an office, hospital, or emergency room visit or in addition to a laboratory test.

(2) Reimbursement for placement of a central venous, arterial, or subclavian catheter shall be:

(a) Included in the fee for the anesthesia if performed by the anesthesiologist;

(b) Included in the fee for the surgery if performed by the surgeon; or

(c) Included in the fee for an office, hospital, or emergency room visit if performed by the same provider.

(3) A laboratory test performed with microscopy shall be reimbursed separately from an evaluation and management CPT code.

Section 7. Delivery-Related Anesthesia, Anesthesia Add-On Services, and Oral Surgery-Related Anesthesia.

(1) The department shall reimburse as follows for the following delivery-related anesthesia services:

(a) For a vaginal delivery, the lesser of:

1. $215; or

2. The actual billed charge;

(b) For a cesarean section, the lesser of:

1. $335; or

2. The actual billed charge;

(c) For neuraxial[~~neuroxial~~] labor anesthesia for a vaginal delivery or cesarean section, the lesser of:

1. $350; or

2. The actual billed charge;

(d) For an additional anesthesia for cesarean delivery following neuraxial[~~neuroxial~~] labor anesthesia for vaginal delivery, the lesser of:

1. Twenty-five (25) dollars; or
2. The actual billed charge; or

(e) For an additional anesthesia for cesarean hysterectomy following neuraxial[~~neuroxial~~] labor anesthesia, the lesser of:

1. Twenty-five (25) dollars; or
2. The actual billed charge.

(2) For an anesthesia add-on service provided to a recipient under the age of one (1) year or over the age of seventy (70) years, the department shall reimburse the lesser of:

(a) Twenty-five (25) dollars; or
(b) The actual billed charge.

(3) For deep sedation or general anesthesia relating to oral surgery performed by an oral surgeon, the department shall reimburse the lesser of:

(a) $150; or
(b) The actual billed charge.

Section 8. Medical Direction of Anesthesia and Anesthesia Under Medical Direction Services.

(1) A provider or facility performing medical direction shall comply with all Medicare requirements to perform medical direction services located in 42 C.F.R. 415.110 and as found in the Medicare Claims Processing Manual, Chapter 12, Section 50, Paragraph C, as those Medicare requirements existed at the time of the applicable claim submission. This is a link to the Medicare Claims Processing Manual, Chapter 12, as it existed in July 2021: https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c12.pdf.

(2) A reimbursement shall not be made for an anesthesiologist assistant or a student registered nurse anesthetist unless those provider types are:

(a) Otherwise eligible for licensure or certification;
(b) Appropriately enrolled with the department; and
(c) If applicable, a managed care organization.

Section 9. Vaccines.

(1) The department shall reimburse administration of a:

(a) Pediatric vaccine to a recipient under the age of nineteen (19) years;
(b) Department approved vaccines; or
(c)[~~(b)~~] Flu vaccine to a recipient of any age.

(2)

(a) The department shall reimburse for the cost of a vaccine administered to a recipient under nineteen (19) years of age, in addition to administration of the vaccine, for a vaccine that is administered [~~isadministered~~] to a recipient by a provider.

(b) For those providers who are enrolled in the Vaccines for Children Program, the department shall not reimburse for the cost of a vaccine if the vaccine is readily available at the provider's facility and free through the Vaccines for Children Program in accordance with 42 U.S.C. 1396s[~~,~~] and 907 KAR 1:680.

Section 10. Physician Assistant. Reimbursement for a service provided by a physician assistant shall be seventy-five (75) percent of the amount reimbursable to a physician in accordance with this administrative regulation.

Section 11. Reimbursement Limits and Related Requirements.

(1) Reimbursement for an anesthesia service shall include:

(a) Preoperative and postoperative visits;
(b) Administration of the anesthetic;
(c) Administration of fluids and blood incidental to the anesthesia or surgery;
(d) Postoperative pain management until discharge from the recovery area;
(e) Preoperative, intraoperative, and postoperative monitoring services; and
(f) Insertion of arterial and venous catheters.

(2) With the exception of an anesthetic, contrast, or neurolytic solution, administration of a substance to a recipient by epidural or spinal injection for the control of chronic pain shall be limited to three (3):

(a) Injections per date of service; and
(b) Dates of service per six (6) month period.

(3) If related to the surgery and provided by the physician who performs the surgery, reimbursement for a surgical procedure shall include the following:

(a) A preoperative service;
(b) An intraoperative service; and
(c) A postoperative service and follow-up care within:

1. Ninety (90) calendar days following the date of major surgery; or
2. Ten (10) calendar days following the date of minor surgery.

(4) Reimbursement for the application of a cast or splint shall be in accordance with 907 KAR 1:104, Section 3(4).

(5) Multiple surgical procedures performed by a physician during the same operative session shall be reimbursed as follows:

(a) The major procedure, an add-on code, and other CPT codes approved by the department for billing with units shall be reimbursed in accordance with Section 3(1)(a) or (2)(b) of this administrative regulation; and

(b) The additional surgical procedure shall be reimbursed at fifty (50) percent of the amount determined in accordance with Section 3(1)(a) or (2)(b) of this administrative regulation.

(6) If performed concurrently, separate reimbursement shall not be made for a procedure that has been determined by the department to be incidental, integral, or mutually exclusive to another procedure.

(7) The department shall not reimburse for an evaluation and management CPT code unless:

(a) Direct physician contact occurred during the visit; or
(b) Direct physician contact is not required in accordance with 907 KAR 3:005, Section 3(2).

Section 12. Other Provider Preventable Conditions. In accordance with 907 KAR 14:005, the department shall not reimburse for other provider preventable conditions.

Section 13. Supplemental Payments.

(1) In addition to a reimbursement made pursuant to Sections 2 through 11 of this administrative regulation, the department shall make a supplemental payment to a medical school faculty physician:

(a) Who:

1. Is licensed to practice medicine or osteopathy in Kentucky;
2. Is enrolled in the Kentucky Medicaid program in accordance with 907 KAR 1:672;
3. Is participating in the Kentucky Medicaid program in accordance with 907 KAR 1:671;
4. Is employed by a state university teaching hospital, a pediatric teaching hospital, or a state university school of medicine that is part of a university health care system; and
5. Agrees to assign his or her Medicaid reimbursement, in accordance with 42 C.F.R. 447.10, to the state university entity with whom the physician is employed; and

(b) For services provided:

1. Directly by the medical school faculty physician; or
2. By a resident working under the supervision of the medical school faculty physician.

(2) A supplemental payment plus other reimbursements made in accordance with this administrative regulation shall:

(a) Not exceed the physician's charge for the service provided; and
(b) Be paid directly or indirectly to the medical school.

(3) A supplemental payment made in accordance with this section shall be:

(a) Based on the funding made available through an intergovernmental transfer of funds for this purpose by a state-supported school of medicine meeting the criteria established in subsection (1) of this section;
(b) Consistent with the requirements of 42 C.F.R. 447.325; and
(c) Made on an annual basis.

Section 14. The department shall reimburse for physician administered drugs in accordance with 907 KAR 23:020.

Section 15. Not Applicable to Managed Care Organizations.

(1) A managed care organization may elect to reimburse the same amount for physician services as the department does.

(2) A managed care organization shall not be required to reimburse the same amount as established in this administrative regulation for a physician service reimbursed by the department via this administrative regulation.

Section 16. Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services approval for the reimbursement.

Section 17. Appeal Rights.

(1) An appeal of a department decision regarding a Medicaid recipient based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a department decision regarding a Medicaid provider based upon an application of this administrative regulation shall be in accordance with 907 KAR 1:671.

LISA D. LEE, Commissioner
STEVEN J. STACK, MD, MBA, Secretary

APPROVED BY AGENCY: October 6, 2025

FILED WITH LRC: January 7, 2026 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott and Krista Quarles
Subject Headings: Medicaid, Health and Medical Services, Physicians and Practitioners
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes reimbursement requirements for physician services.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish reimbursement requirements for physician services.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing reimbursement requirements for physician services.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing reimbursement requirements for physician services.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment changes this administrative regulation by updating the timeline for the updates to the Physician Fee Schedule to align with the annual updates made by the Centers for Medicare and Medicaid Services, update the definition of a provider group, and update the vaccinations eligible for reimbursement by the provider.
(b) The necessity of the amendment to this administrative regulation: This amendment to this administrative regulation is necessary to update DMS policy relating to the updated timeline for the Physician Fee Schedule updates, provider groups, and reimbursement eligibility for vaccinations.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by ensuring adequate services and physician networks are available to Medicaid recipients.
(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of the statutes by addressing the services provided by providers and physicians within the Medicaid program.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are more than 73,000 providers in the Medicaid program.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: There are no actions that will need to be taken for entities to comply.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional costs to entities.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Providers will have clarity on the reimbursable vaccinations available to Medicaid recipients.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There are no costs to implement this administrative regulation.
(b) On a continuing basis: There are no ongoing costs to implement this administrative regulation.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement the amendments to this admin
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.
(10) TIERING: Is tiering applied? Tiering is not applied in this administrative regulation because the administration regulation applies equally to all individuals and entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(1); 42 U.S.C. 1396a(a)(10)(B)
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family Services, Department for Medicaid Services
(a) Estimate the following for the first year:
Expenditures: N/A
Revenues: N/A
Cost Savings: N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There are no anticipated changes in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None identified
(a) Estimate the following for the first year:
Expenditures: N/A
Revenues: N/A
Cost Savings: N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A
(4) Identify additional regulated entities not listed in questions (2) or (3): None identified.
(a) Estimate the following for the first year:
Expenditures: N/A
Revenues: N/A
Cost Savings: N/A
(b) How will expenditures, revenues, or cost savings differ in subsequent years? There are no anticipated changes in subsequent years.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: DMS does not anticipate additional costs, expenditures, or revenues as a result of the amendments to this administrative regulation.
(b) Methodology and resources used to determine the fiscal impact: Departmental assessment of utilization patterns, nongovernmental payer experiences with evaluation and management services reimbursement, and anticipated improved treatment outcomes from appropriate utilization of utilization and management services.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: Departmental assessment of reimbursement associated with evaluation and management services.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. 1396a(a)(10)(B)
(2) State compliance standards. KRS 194A.030(2) requires the Department for Medicaid Services to “serve as the single state agency in the commonwealth to administer Title XIX of the Federal Social Security Act”.
(3) Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope as available to other individuals (non-Medicaid).
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter or different responsibilities than the federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter or different responsibilities than the federal requirements

NEW ADMINISTRATIVE REGULATIONS

Public comment periods for ordinary, non-emergency regulations are at least two months long. For other regulations with open comment periods, please also see last month's *Administrative Register of Kentucky*.

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Repealer)

105 KAR 1:261. Repeal of 105 KAR 1:260.

RELATES TO: KRS 61.505(g)
STATUTORY AUTHORITY: KRS 61.505(1)(g), 61.645(9)(e)
CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) and 61.645(9)(e) authorize the Kentucky Public Pensions Authority on behalf of Kentucky Retirement Systems and County Employees Retirement System to promulgate administrative regulations that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505 to 61.705, and 78.510 to 78.852. This administrative regulation repeals 105 KAR 1:260 Purchase of out-of-state service credit which is being consolidated with 105 KAR 1:330 Purchase of service credit.

Section 1. 105 KAR 1:260, Purchase of out-of-state service credit, is hereby repealed.

RYAN BARROW, Executive Director
APPROVED BY AGENCY: December 10, 2025
FILED WITH LRC: January 9, 2026 AT 10:45 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2026 at 10:00 a.m. Eastern Time at the Kentucky Public Pensions Authority (KPPA), 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in presenting a public comment at this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026 and shall receive the same consideration as verbal comments. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person. KPPA shall file a response with the Regulations Compiler to any public comments received, whether at the public comment hearing or in writing, via a Statement of Consideration no later than the 15th day of the month following the end of the public comment period, or upon filing a written request for extension, no later than the 15th day of the second month following the end of the public comment period.

CONTACT PERSON: Carole J. Catalfo, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 696-8679, Fax (502) 696-8615, Email: Legal.Non-Advocacy@kyret.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Carole J. Catalfo
Subject Headings: Boards and Commissions, Local Governments, Retirements and Pensions, State Employees, State Police
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation repeals 105 KAR 1:260 Purchase of out-of-state service credit which is being consolidated with 401 KAR 1:330 Purchase of service credit.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to repeal 105 KAR 1:260 Purchase of out-of-state service credit which is being consolidated with 401 KAR 1:330 Purchase of service credit.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.505(1)(g) and 61.645(9)(e) authorize the Kentucky Public Pensions Authority on behalf of Kentucky Retirement Systems and County Employees Retirement System to promulgate administrative regulations that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.505 to 61.705, and 78.510 to 78.852. KRS 13A.310 provides for the repeal of administrative regulations.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by repealing 105 KAR 1:260 Purchase of out-of-state service credit which is being consolidated with 401 KAR 1:330 Purchase of service credit.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This administrative regulation is a repealer.
(b) The necessity of the amendment to this administrative regulation: This administrative regulation is a repealer. c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation is a repealer.
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation is a repealer.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? {If yes, provide the year of the legislation and either the bill number or Ky Acts chapter number being implemented.} KRS 61.505 - Amended 2024 Ky. Acts ch. 55, sec. 1, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 28, sec. 1, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 2, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 76, effective April 1, 2021. -- Created 2020 Ky. Acts ch. 79, sec. 2, effective April 1, 2021. KRS 61.645 - Amended 2024 Ky. Acts ch. 55, sec. 13, effective July 15, 2024. -- Amended 2023 Ky. Acts ch. 94, sec. 3, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 216, sec. 12, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 102, sec. 66, effective April 1, 2021. -- Amended 2020 Ky. Acts ch. 79, sec. 4, effective April 1, 2021.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects those members, of approximately 433,461 participants in the Kentucky Employees Retirement System, the State Police Retirement System, and the County Employees Retirement System, that wish to purchase service credit.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The regulated community will be minimally impacted because 401 KAR 1:260 Purchase of out-of-state service credit is being consolidated with 105 KAR 1:330 Purchase of service credit. The process and eligibility for purchase of service credit is already being implemented as written.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There will be no additional costs to comply with this repealer because purchase of service credit is already being implemented as written.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated community will benefit from having a single, streamlined regulation regarding purchase of service

credit.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no additional costs to implement this repealer because purchase of service credit is already being implemented as written.
(b) On a continuing basis: There will be no additional costs to implement this repealer because purchase of service credit is already being implemented as written.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No, an increase in fees or funding will not be necessary.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? No, tiering is not applied. This administrative regulation is a repealer.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 13A.310, 61.505(1)(g) and 61.645(9)(e).
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 13A.310, 61.505(1)(g) and 61.645(9)(e)
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky Public Pensions Authority. There are no other affected state units, parts, or divisions. (b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None.
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): This administrative regulation affects those members, of approximately 433,461 participants in the Kentucky Employees Retirement System, the State Police Retirement System, and the County Employees Retirement System, that wish to purchase service credit.
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None.
For subsequent years: None.
2. Revenues:
For the first year: None.
For subsequent years: None.
3. Cost Savings:
For the first year: None.
For subsequent years: None. (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: This repealer will have no fiscal impact.
(b) Methodology and resources used to reach this conclusion: The agency analyzed costs and procedures for implementing purchase of service credit for participants.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): No, this administrative regulation will not have a major economic impact as defined by KRS 13A.010(14).
(b) The methodology and resources used to reach this conclusion: The agency analyzed costs and procedures for implementing purchase of service credit for participants.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(New Administrative Regulation)

201 KAR 9:086. License renewal and registration; reregistration of inactive license for physician assistants.

RELATES TO: KRS 311.842(1); 311.842(2)(e); 311.844(3)
STATUTORY AUTHORITY: KRS 311.565; 311.842(2)(e)
CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.
NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.842(1) authorizes the board to promulgate administrative regulations relating to the licensing and regulation of physician assistants. The purpose of this administrative regulation is to establish procedures and rules regarding the renewal and activation of inactive licenses held by physician assistants.

Section 1. Renewal of an Active License. On or about February 1, every two (2) years, the executive director shall send by electronic communication ("email") notification to all physician assistants ("licensees") holding an active regular license to practice as a physician assistant in the Commonwealth that renewal of their license must be executed on or before March 31 of that same year. The notification shall indicate the renewal fee and shall warn the licensee that failure to timely renew shall cause his or her license to become inactive.

Section 2. Survey. In conjunction with any notification required to be sent by Section 1 of this administrative regulation, the executive director shall also send a survey to be completed by the licensee's current or most recent primary supervising physician. The survey shall ask the supervising physician to evaluate the licensee's reliability, accountability, fund of medical knowledge and to recommend whether to approve or deny renewal of the licensee's renewal application. A license shall not be renewed, or an inactive license activated, until the survey has been completed to the executive director's satisfaction.

Section 3. Late Renewal. Any licensee holding a regular license who fails to renew his or her active license on or before March 31 of the year notified shall be sent a second notification that shall indicate the renewal fee, the penalty fee for late renewal and the time allowed for late renewal which shall not be longer than thirty (30) days beyond the date designated on the first notification for renewal. If the licensee fails to complete a late renewal of his or her active license by April 30 of that same year, the license shall be considered inactive or cancelled accordingly and continued practice by the

physician assistant shall be considered unauthorized and unlicensed.

Section 4. Activation of Inactive Regular License. Upon failure of a licensee to renew his or her active license before the expiration of the time allowed for late renewal, the license shall become inactive and continued practice by the physician assistant shall be considered unauthorized and unlicensed. At any subsequent time, the holder of an inactive license may apply to activate his or her inactive license by paying the fee for activation of an inactive license, and satisfactorily completing the forms necessary for obtaining sufficient information concerning the physician assistant's present fitness to practice.

Section 5. All notifications required to be sent by this administrative regulation shall be sent by email to the licensee's last known self-entered email address of which the board has record. Failure of the licensee to receive notice if emailed to the licensee's last known self-entered email address shall not excuse the licensee from compliance with the statutes or this administrative regulation.

WILLIAM C. THORNBURY, M.D., PRESIDENT

APPROVED BY AGENCY: December 18, 2025

FILED WITH LRC: January 12, 2026 at 10:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, March 23, 2026, at 9:00 a.m., using the Kentucky Board of Medical Licensure Zoom meeting room. A Zoom link will be posted on the agency's web site, kbml.ky.gov, prior to the meeting. Individuals interested in being heard at this hearing shall notify this agency in writing no less than five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received at least five (5) workdays prior to the hearing, the hearing may be cancelled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation. Written comments previously submitted will be considered and new comments shall be accepted through March 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Leanne K. Diakov, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, phone (502)764-2613, fax (502) 429-7118, email leanne.diakov@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leanne K. Diakov
Subject Headings: Occupations and Professions, Physicians and Practitioners, Licensing
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the renewal and reinstatement processes for continued licensure of physician assistants.
(b) The necessity of this administrative regulation: It is necessary to promulgate this regulation to establish for physician assistant licensees the renewal and reinstatement processes for continued licensure.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms with 311.842(1) and (2)(e) and 311.844(3) by setting forth the procedures for licensure renewal and reinstatement.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation acts specifically to set forth the processes, timelines and procedures for renewal and reinstatement of physician assistant licenses.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: N/A
(b) The necessity of the amendment to this administrative regulation: N/A
(c) How the amendment conforms to the content of the authorizing statutes: N/A
(d) How the amendment will assist in the effective administration of the statutes: N/A
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect approximately 3,521 active and inactive physician assistant licenses in the Commonwealth of Kentucky.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: The amendment sets forth administrative processes and timelines already in place (and have been for years) but gives licensees reassurance and clarity in knowing how and when to comply.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no new or additional costs to licensees associated with the amendment of this administrative regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Physician assistant licensees benefit by knowing how and when to comply with renewal and reinstatement processes.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: None.
(b) On a continuing basis: None.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: N/A
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase of fees or funding will be necessary.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any new fees nor does it directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311.565; 311.842(1) and (2)(e)
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: 2020 Kentucky Laws Ch. 61 (SB 125)
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Medical Licensure
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire

departments, school districts): None
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: N/A
For subsequent years: N/A
2. Revenues:
For the first year: N/A
For subsequent years: N/A
3. Cost Savings:
For the first year: N/A
For subsequent years: N/A
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): Physician Assistants (PAs)
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: The amendment of this administrative regulation will not have a major fiscal impact on state or local government or regulated entities. (The amendment does not alter or increase an already-existing fee schedule set forth in 201 KAR 9:084.)
(b) Methodology and resources used to reach this conclusion: N/A
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): The amendment of this administrative regulation will not have a major fiscal impact on state or local government or regulated entities.
(b) The methodology and resources used to reach this conclusion: N/A.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(New Administrative Regulation)

781 KAR 1:001. Definitions.

RELATES TO: KRS 151B.185, 151B.190, 151B.195, 151B.200, 34 C.F.R. Part 361, 29 U.S.C. 721, 722, 723
STATUTORY AUTHORITY: KRS 151B.185, 151B.195(1), 151B.200
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate regulations governing the services and administration of the State Vocational Rehabilitation Agency. KRS 151B.200 authorizes the office to comply with federal acts relating to vocational rehabilitation when these acts apply to joint state and federally funded vocational rehabilitation programs. KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing services, personnel, and administration of the State Vocational Rehabilitation Agency. This administrative regulation establishes the definitions needed for the provision of rehabilitation services.

Section 1. Definitions.
(1) "Acute or emergency medical conditions" are accidents or illnesses with sudden onset and relatively short course.
(2) "Administrative hearing" is defined by KRS 13B.010(2).
(3) "Administrative review" means an informal process through which office personnel not involved in the initial office decision conduct a review of an office decision to ensure the decision complies with office policy.
(4) "Assistive technology specialist" means an individual who analyzes the needs of individuals with disabilities, assists in the selection of the appropriate assistive technology, and trains the eligible individual on how to properly use the specific equipment.
(5) "Attendant Factors" are factors not directly resulting from a disability that affect the individual's ability to obtain, maintain, or progress in employment.
(6) "Case record" means the official written or electronic record of the vocational rehabilitation case of an applicant, potentially eligible, or eligible individual.
(7) "Certified driver rehabilitation specialist" means a driver rehabilitation specialist who has obtained certification to provide services from the Association for Driver Rehabilitation Specialists.
(8) "Clear and convincing evidence" means a firm belief that a factual contention is highly probable.
(9) "Comparable services and benefits" is defined in 34 C.F.R. 361.5(c)(8).
(10) "Comprehensive Transition and Postsecondary Program" (CTP) means a program designated by the United States Department of Education under 34 C.F.R. 668.231(a).
(11) "Competitive integrated employment" is defined by 34 C.F.R. 361.5(c)(9).
(12) "Content tutoring" means instruction to improve performance in a specific course or subject when the academic difficulty is not caused by a disability.
(13) "Disability-related tutoring" means tutoring, instruction, or programs specifically designed to address academic limitations that result from a disability and that are necessary for the individual to benefit from training or to achieve the employment outcome.
(14) "Driver evaluation" means a clinical and behind-the-wheel evaluation by a certified driver rehabilitation specialist to identify an eligible individual's driver rehabilitation needs to allow that person to drive independently.
(15) "Driver training" means behind-the-wheel instruction required to teach an individual with a disability to drive with or without vehicle modifications.
(16) "Educational assistance services" means reader services, note-taking assistance, page turning, typing, recording, securing reference materials, or similar support necessary for the individual to participate in training or education programs.
(17) "Educational aide" means an approved vendor who provides educational assistance services under this section.
(18) "Electronic communication" includes, but is not limited to email, fax, and Short Message Service, and text messaging.
(19) "Eligible individual" is defined by 34 C.F.R. 361.5(c)(14).
(20) "Employment outcome" is defined by 34 C.F.R. 361.5(c)(15).
(21) "Executive director" means the Executive Director of the Office of Vocational Rehabilitation.
(22) "Extended driver evaluation" means additional evaluation necessary in those cases in which an individual's ability to drive cannot be determined after a driver evaluation.
(23) "Family member" is defined by 34 C.F.R. 361.5(c)(22).
(24) "Financial participation" means the amount the eligible individual must pay for cost sharing between the office and the eligible individual for an authorized good or service.
(25) "Functional capacity" means the capacity to perform tasks required in employment including:
(a) Mobility;
(b) Communication;
(c) Self-care;
(d) Self-direction;

(e) Interpersonal skills;
(f) Work tolerance; or
(g) Work skills.
(26) "Hearing officer" is defined by KRS 13B.010(5).
(27) "Household size" is calculated using the individual's most recent federal income tax return, and means:
(a) If the individual is not claimed as a tax dependent for purposes of filing federal taxes, the individual, the individual's spouse, if legally married, and the individual's tax dependents; or
(b) If the individual is claimed as a dependent for purposes of filing federal taxes, the individual, any persons claiming the individual as a dependent, and any other dependents the tax filer claims.
(28) "Individual" is a disabled person who is applying, potentially eligible, or eligible for vocational rehabilitation services in Kentucky.
(29) "Individual with a disability" is defined by 34 C.F.R. 361.5(c)(27) and 34 C.F.R. 361.5(c)(28).
(30) "Individual with a most significant disability" is defined in 34 C.F.R. 361.5(c)(29).
(31) "Individual with a significant disability" is defined in 34 C.F.R. 361.5(c)(30).
(32) "Individualized plan for employment" means a written plan for a specific employment outcome as required by 34 C.F.R. 361.46.
(33) "Informed choice" means the applicant, potentially eligible individual, and eligible individual's right to receive information and support that allows them to make informed decisions about their case throughout the vocational rehabilitation process including but not limited to the choice of service provider as set forth in 34 C.F.R. 361.52.
(34) "In state service" means a vocational rehabilitation service that is provided in Kentucky.
(35) "Mediation" is defined by 34 C.F.R. 361.5(c)(35).
(36) "Non-significant disability" means a disability that does not limit a functional capacity.
(37) "Office" means the Office of Vocational Rehabilitation and its staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.
(38) "Personal assistance services" is defined by 34 C.F.R. 361.5(c)(38).
(39) "Physical or mental impairment" is defined by 34 C.F.R. 361.5(c)(40).
(40) "Pre-employment transition services (Pre-ETS)" means the set of early career exploration services identified in 34 C.F.R. 361.48(a)(2).
(41) "Post-employment services" is defined by 34 C.F.R. 361.5(c)(41).
(42) "Post-secondary education" means academic or vocational training provided by an accredited post-secondary institution, including universities, colleges, community and technical colleges, and proprietary schools which leads to an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the Commonwealth of Kentucky or federal government, or an associate or baccalaureate degree.
(43) "Post-Secondary Transition Program" (PSTP) means a two (2) or three (3) year work-readiness and employment-skills training program operated by a post-secondary institution that is a CTP.
(44) "Potentially eligible student" means a student with a disability between the ages of 14 and 21 who has not applied for or been determined eligible for vocational rehabilitation services.
(45) "Remediation" means instruction intended to address basic educational deficiencies not caused by the individual's disability.
(46) "Secretary" means the Secretary of the Education and Labor Cabinet.
(47) "Serious limitation" means the individual frequently requires assistance from others, personal adaptations, assistive technology and/or accommodations not typically needed for other workers to participate in employment.
(48) "Service fee" means the standard rate of pay established by the office for vocational rehabilitation services and goods.
(49) "Service Fee Memorandum" means the document used to communicate the service fees to vendors.
(50) "Structural addition" means any improvement to real property that would increase the square footage or footprint of the property.
(51) "Student with a disability" means an individual who is 14-21 years of age and is eligible for and receiving special education or related services under the Individuals with Disabilities Education Act or is an individual with a disability for purposes of Section 504 of the Rehabilitation Act.
(52) "Substantial impediment to employment" is defined by 34 C.F.R. 361.5(c)(52).
(53) "Tutorial services" means individualized instruction provided to improve academic performance or address disability-related barriers to participation in a training or educational program.
(54) "Vendor" means a person or entity:
(a) The office has determined meets the service provider standards established by the office and has executed a vendor agreement with the office, or
(b) From which the office has agreed to purchase goods or services.
(55) "Vocational rehabilitation services" is defined by 34 C.F.R. 361.5(c)(57).

VICKIE WISE, Deputy Secretary
APPROVED BY AGENCY: December 30, 2025
FILED WITH LRC: December 31, 2025 at 12:10 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 24, 2026 at 11:00 am, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, KY 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Brooke McDaniel
Subject Headings: Disability and Disabilities, Workforce Development, Education
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation provides the definitions for the operation of the Office of Vocational Rehabilitation (OVR) in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq.
(b) The necessity of this administrative regulation: KRS 151B.195 requires OVR to promulgate administrative regulations outlining the administration of vocational rehabilitation services in Kentucky in compliance with the federal Rehabilitation Act and KRS 151B.180, et seq.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides the required definitions for the regulations which outline the operation of OVR.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists individuals seeking services from OVR in understanding the regulations governing the operation of the office.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new regulation which takes the definitions from the other regulations and puts them in one place for consistency and ease of reference.
(b) The necessity of the amendment to this administrative regulation:

See above. (c) How the amendment conforms to the content of the authorizing statute: This regulation conforms to the authorizing statutes by providing the definitions needed.
(c) How the amendment conforms to the content of the authorizing statutes:
(d) How the amendment will assist in the effective administration of the statutes: This amendment makes the definitions easier to find and more understandable.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No person or entity is required to take action as a result of this amendment.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There are no new costs to any person or entity.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The regulated individuals will have a better understanding of the other regulations.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: No additional costs.
(b) On a continuing basis: No additional costs.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds received by the Office of Vocational Rehabilitation and the required state match funds; however, there are no additional costs as a result of this proposed amendment.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding necessary to implement this amendment to the existing administrative regulation.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.
(10) TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all affected entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: 29 U.S.C. § 721-723; 34 C.F.R. Part 361; KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This act is authorized by KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.
(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected. (b) Estimate the following for each affected state unit part, or division identified in (3)(a):
(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities are affected.
(b) Estimate the following for each affected local entity identified in (4)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None
(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None
(b) Estimate the following for each regulated entity identified in (5)(a):
1. Expenditures:
For the first year: None
For subsequent years: None
2. Revenues:
For the first year: None
For subsequent years: None
3. Cost Savings:
For the first year: None
For subsequent years: None (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a) Not applicable.
(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)
(a) Fiscal impact of this administrative regulation: None.
(b) Methodology and resources used to reach this conclusion: Not applicable.
(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):
(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14): This proposed amendment will not have a major economic impact.
(b) The methodology and resources used to reach this conclusion: Not applicable.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Long-Term Services and Supports
(New Administrative Regulation)

907 KAR 2:720. 1915(c) Kentucky's Community Health for Improved Lives and Development (CHILD) Waiver Program Requirements.

RELATES TO: KRS 14A.4, 17.165, 189.125, 200.503, 205.520, 205.5605, 205.8451, 209, 217, 218A, 273.182, 309, 314.011, 315, 319, 319A, 335, 369, 387, 500.080, 600.020, 620.030, 620.055, 42 C.F.R. 430.10, 431.53, 440.150, 440.170, 441.301, 441.530, 441.725, 45 C.F.R. Parts 160, 162, and 164, 20 U.S.C. 1400, 1401, 29 U.S.C. 730, 794, 42 U.S.C. 11434a, 12101, 1320d, 1396a, 1396d, 1396n, H.R.34 - 114th Congress (2015-2016)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS

205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the program and operational requirements to provide expanded services to individuals who have a primary diagnosis of autism, developmental disability, intellectual disability, or serious emotional disturbance.

Section 1. Definitions.

(1) "1915(c) CHILD Waiver" means: the Home and Community-Based Services program titled Community Health for Improved Lives and Development (CHILD) authorized under Section 1915(c) of the Social Security Act, and administered by the Department for Medicaid Services to serve eligible children and youth with intellectual disability or developmental disability including autism.

(2) "1915(c) home and community-based waiver program" means a Kentucky Medicaid program established pursuant to, and in accordance with, 42 U.S.C. 1396n(c).

(3) "Abuse" is defined by KRS 600.020 for children and KRS 209.020(8) for adults.

(4) "Activities of daily living" or "ADLs" means activities that a person normally undertakes in their daily life, including activities such as bathing, eating, dressing, toileting, transferring.

(5) "Allocation" is defined as an individual who has been assigned a slot on the waiver but has not yet started services.

(6) "Americans with Disabilities Act" or "ADA" is defined by 42 U.S.C. 12101.

(7) "Applicant" means an individual applying to receive 1915(c) waiver services.

(8) "Assessment" means the process that authorizes the department or its designee to determine applicant service needs that can be met safely in a community-based setting and determine if the participant is eligible for 1915(c) CHILD waiver services.

(9) "Autism" means autism spectrum disorder (ASD) which is characterized by:

(a) Persistent deficits in social communication and social interaction across multiple contexts;

(b) Restricted, repetitive patterns of behavior, interests, or activities, currently or by history;

(c) Symptoms that shall be present in the early developmental period (but may not become fully manifested until social demands exceed limited capacities, or may be masked by learned strategies in later life);

(d) Symptoms that cause clinically significant impairment in social, occupational, or other important areas of current functioning; and

(e) These disturbances are not better explained by intellectual disability (intellectual developmental disorder) or global developmental delay. Intellectual disability and autism spectrum disorder frequently co-occur; to make comorbid diagnoses of autism spectrum disorder and intellectual disability, social communication shall be below that expected for general developmental level.

(10) "Aversive technique" means:

(a) Withholding:

1. Food or hydration as a means to control or impose calm;
2. Access to a:
a. Legal advocate; or
b. Ombudsman;
3. Access to a:
a. Toilet;
b. Bath; or
c. Shower;
4. Access to personal belongings; or
5. Access to natural supports;

(b) Depriving medical attention or prescribed medication;

(c) Depriving sleep;

(d) Dehumanization of the individual, through means such as:

1. Social degradation;
2. Social isolation;
3. Verbal abuse;
4. Techniques inappropriate for the individual's age; or
5. Treatment out of proportion to the target behavior; or

(e) Activities that include:

1. Electric shocking;
2. Sleep or food deprivation;
3. Punitive exercise tasks;
4. Shaming;
5. Yelling;
6. Corporal punishment;
7. Hitting;
8. Sensory triggering;
9. Intimidation; or
10. Use of stress positions.

(11) "Behavior intervention committee" or "BIC" means a group of individuals:

(a) Established to evaluate the technical adequacy of a proposed behavioral intervention for a participant; and

(b) That meets in accordance with the BIC policies established in Section 10 of this administrative regulation.

(12) " Behavioral health practitioner" mean an independently licensed practitioner who is:

(a) An advanced practice registered nurse (APRN);
(b) A certified psychologist with autonomous functioning;
(c) A licensed behavior analyst;
(d) A licensed clinical alcohol and drug counselor;
(e) A licensed clinical social worker (LCSW);
(f) A licensed marriage and family therapist (LMFT);
(g) A licensed professional art therapist;
(h) A licensed professional clinical counselor (LPCC);
(i) A licensed psychological practitioner;
(j) A licensed psychologist;
(k) A physician;
(l) A physician assistant;
(m) A psychiatrist; or
(n) A licensed professional clinical counselor (LPCC).

(13) "Behavioral health practitioner under clinical supervision" means a:

(a) Psychologist certified and practicing in accordance with KRS 319.056;

(b) Licensed psychological associate, practicing as defined by KRS 319.064;

(c) Marriage and family therapist associate as defined by KRS 335.300(3);

(d) Social worker certified and practicing in accordance with KRS 335.080;

(e) Licensed professional counselor associate as defined by KRS 335.500(4);

(f) Licensed professional art therapist associate as defined by KRS 309.130(3); or

(g) Registered behavior technician under the supervision of a licensed behavior analyst.

(14) "Board" means three (3) meals a day or other full nutritional regimen of a caregiver for the purpose of providing shared living services.

(15) "Case manager" means an individual who meets the personnel and training requirements established in Section 5 of this administrative regulation and is responsible for facilitating person-centered service planning, coordination, and oversight of waiver services.

(16) "Case manager supervisor" means an individual who:

(a) Provides professional oversight of case managers;

(b)

1. Has a bachelor's or higher degree in a human service field from an accredited college or university;

2. Has a bachelor's degree in any other field from an accredited college or university with at least one (1) year of experience in the field of intellectual disability; or

3. Is a registered nurse;

(c) Has at least two (2) years of experience of case management responsibility in an organization that serves individuals with intellectual or developmental disabilities;

(d) Completes a case management supervisory training curriculum approved by the department within six (6) months of beginning supervisory responsibilities; and

(e) Meets all personnel and training requirements established in Section 5 of this administrative regulation.

(17) "Centers for Medicare and Medicaid Services (CMS)" means the federal agency within the U.S. Department of Health and Human Services responsible for approving Medicaid waivers and ensuring compliance with federal regulations.

(18) "Certification" or "recertification" means the authorization received by a Medicaid enrolled provider who:

(a) Has been determined to meet the requirements of the Centers for Medicare and Medicaid Services (CMS) approved 1915(c) CHILD waiver and this administrative regulation; and

(b) Is approved by the department to provide one (1) or more services to 1915(c) CHILD waiver participants.

(19) "Certified psychologist with autonomous functioning" means a person licensed pursuant to KRS 319.056.

(20) "Certified school psychologist" means an individual certified by the Kentucky Education Professional Standards Board under 16 KAR 2:090.

(21) "Child and Adolescent Needs and Strengths Assessment" or "CANS Assessment" means an assessment tool that is:

(a) Designed to give a profile of the specific current needs and strengths of the child or adolescent and caregiver(s);

(b) A person-centered, consensus-based functional needs assessment for young people with developmental disabilities and their families; and

(c) Used to determine level of care for the 1915(c) CHILD Waiver.

(22) "Chemical restraint" means a drug or medication:

(a) Used to restrict an individual's:

1. Behavior; or

2. Freedom of movement; and

(b)

1. That is not a standard treatment for the individual's condition; or

2. Dosage that is not an appropriate dosage for the individual's condition.

(23) "Child" or "youth" means an individual aged zero (0) up to twenty-one (21) years who meets the eligibility criteria specified in this administrative regulation.

(24) "Controlled substance" is defined by KRS 218A.010(8).

(25) "Corrective action plan" or "CAP" means a document submitted by a 1915(c) CHILD waiver provider to the department that:

(a) States the system changes, processes, or other actions that the provider is required to take to prevent a future occurrence of a founded violation stated in a citation or findings report;

(b) States the timeframe in which the provider shall successfully implement or perform a system change, process, or other action required by the corrective action plan; and

(c) Is not valid or effective until approved by the department.

(26) "Covered services and supports" is defined by Section 6 of 907 KAR 2.720.

(27) "Crisis Prevention and Response Plan" means a document developed as part of the person-centered service plan to:

(a) Anticipate;

(b) Mitigate;

(c) Manage behavioral health crises; and

(d) Promote safety.

(28) "Critical incident" means an incident that is serious in nature and poses an immediate risk to the health, safety, or welfare of a participant. "Critical incident" includes a serious medication error.

(29) "DCBS" means the Kentucky Department for Community Based Services.

(30) "Department" means the Kentucky Department for Medicaid Services or its designee.

(31) "Developmental disability" means a disability that:

(a) Is manifested prior to the age of twenty-two (22);

(b) Constitutes a substantial disability to the affected individual; and

(c) Is attributable either to an intellectual disability or a condition related to an intellectual disability that:

1. Results in an impairment of general intellectual functioning and adaptive behavior similar to that of a person with an intellectual disability; and

2. Is a direct result of, or is influenced by, the person's cognitive deficits.

(32) "Direct support professional" means an individual who:

(a) Provides services to a participant in accordance with Section 6 of this administrative regulation;

(b) Has direct contact with a participant when providing services to the participant;

(c) Is at least twenty-one (21) years old;

(d) Meets the personnel and training requirements established in Section 4 of this administrative regulation;

(e) Has the ability to:

1. Communicate effectively with a participant and the participant's family;

2. Read, understand, and implement written and oral instructions;

3. Perform required documentation; and

4. Participate as a member of the participant's person-centered planning team if requested by the participant; and

(f) Demonstrates competence and knowledge on topics required to safely support the participant as described in the participant's person-centered service plan.

(33) "Direct support professional supervisor" means an individual who:

(a) Provides oversight of direct support professionals in the provision of services to participants;

(b) Is at least twenty-one (21) years old;

(c) Meets the personnel and training requirements established in Section 4 of this administrative regulation;

(d) Has the ability to:

1. Communicate effectively with a participant and the participant's family;

2. Read, understand, and implement written and oral instructions;

3. Perform required documentation; and

4. Participate as a member of the participant's person-centered team if requested by the participant;

(e) Has at least two (2) years of experience in providing direct support to persons with a developmental disability;

(f) Demonstrates competence and knowledge on topics required to safely support the participant as described in the participant's person-centered service plan; and

(g) Completes a supervisory training curriculum approved by department or its designee within six (6) months of beginning supervisory responsibilities.

(34) "Drug paraphernalia" is defined by KRS 218A.500(1).

(35) "Early and Periodic Screening, Diagnostic, and Treatment" or "EPSDT" is defined by 42 U.S.C. 1396d(r).

(36) "Electronic signature" is defined by KRS 369.102(8).

(37) "Employee" means an individual who is employed by a CHILD provider.

(38) "Exploitation" is defined by KRS 209.020(9).

(39) "Face-to-face" means in person, in the same location, or via telehealth, as consistent with 907 KAR 3:170.

(40) "Functional assessment" means an assessment performed using evidenced based tools, direct observation, and empirical measurement to obtain and identify functional relations between behavioral and environmental factors.

(41) "Guardian" is defined by KRS 387.010(3) for a minor and by KRS 387.812(3) for an adult.

(42) "Home and Community-Based Services" or "HCBS" means services provided under a 1915(c) waiver to support individuals in community settings as an alternative to institutional care.

(43) "Human rights committee" means a group of individuals:

(a) Comprised of representatives from home and community-based waiver provider agencies in the community where a participant resides; and

(b) Who meet:

1. To ensure that the rights of participants are respected and protected through due process; and

2. In accordance with the human rights committee requirements established in Section 9 of this administrative regulation.

(44) "Human services field" means:

(a) Psychology;

(b) Behavioral analysis;
(c) Counseling;
(d) Rehabilitation counseling;
(e) Public health;
(f) Special education;
(g) Sociology;
(h) Gerontology;
(i) Recreational therapy;
(j) Education;
(k) Occupational therapy;
(l) Physical therapy;
(m) Speech-language pathology;
(n) Social work;
(o) Family studies; or
(p) A similar area of study consistent with the list in this subsection.

(45) "Human services related experience" or "experience in a related human services field" means professional experience that includes:
(a) Experience as a case manager in a related human services field;
(b) Certified nursing assistant experience;
(c) Certified medical assistant experience;
(d) Certified home health aide experience;
(e) Personal care assistant experience;
(f) Paid professional experience with aging or disabled populations or programs as a case manager, a rehabilitation specialist or health specialist, or a social services coordinator;
(g) Assessment and care planning experience with clients;
(h) Experience in working directly with persons with serious mental illness, serious emotional disturbance or substance use disorder; or
(i) Work providing assistance to individuals and groups with economically disadvantaged, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, or cultural issues.

(46) "IDEA" means the Individuals with Disabilities Education Act.

(47) "Illicit substance" means:
(a) A drug, prescription or not prescription, used illegally or in excess of therapeutic levels;
(b) A prohibited drug; or
(c) A prohibited substance.

(48) "Immediate family member" is defined by KRS 205.8451(3).

(49) "Incident" means any occurrence that impacts health, safety, welfare, or lifestyle choices of a participant and include a:
(a) Minor injury;
(b) Medication error without a serious outcome; or
(c) Behavior or situation that is not a critical incident.

(50) "Independent functioning" means someone working alone with a participant and who is a fully trained staff.

(51) "Instrumental activities of daily living" (IADLs) means actions that require more advanced skills than basic ADLs. IADLs support overall well-being and not just basic physical needs. IADLs include:
(a) Managing money;
(b) Managing a household;
(c) Communicating with healthcare providers;
(d) Preparing meals;
(e) Communicating with others;
(f) Managing transportation; or
(g) Shopping.

(52) "Integrated setting" means a setting that:
(a) Enables a participant to interact with non-disabled persons to the fullest extent possible;
(b) Includes access to community activities and opportunities at times, frequencies, and with persons of a participant's choosing; and
(c) Affords a participant choice in the participant's daily activities.

(53) "Intellectual disability" or "ID" means a neurodevelopmental disorder as defined by the most current Diagnostic and Statistical Manual of Mental Disorders.

(54) "Intermediate Care Facility for Individuals with Intellectual Disabilities" or "ICF/IID" means an institutional setting that provides care to individuals with intellectual or developmental disabilities, as defined in 42 C.F.R. Sec. 440.150.

(55) "Legally responsible individual" means an individual who has a duty under state law to care for another person and includes:
(a) A parent, whether biological, step, adoptive, or foster, who provides care to the parent's minor child;
(b) A legal guardian who is a court-appointed person who has the authority to make decisions for the participant; or
(c) A spouse of a participant.

(56) "Level of care determination" means a determination by the department that an individual:
(a) Meets patient status criteria for an intermediate care facility for individuals with intellectual disabilities as established in 907 KAR 1:022; or
(b) Meets patient status criteria for inpatient psychiatric hospitalization established in 907 KAR 10:016 and demonstrates requiring direct support as a result of at least one of the following:
1. Has functional psychoses without significant concurrent illness;
2. Requires brief periods of protection from consequences of their behavior during acute disturbance or depression episodes, which may include suicidal or homicidal ideation, or refusal to eat;
3. Is diagnosed with an acute or chronic psychiatric illness;
4. Has a diagnosed chronic mental illness requiring regular and frequent protection, symptom management, and treatment during periods of disruptive behavior;
5. Demonstrates having a neurocognitive disorder, which is unresponsive to medication and cannot be managed in an acute care hospital due to physical aggression or risk of danger to themselves; or
6. Has episodes of agitation or restlessness produced by stressful situations which may require brief hospital treatment.

(57) "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.

(58) "Licensed marriage and family therapist" or "LMFT" is defined by KRS 335.300(2).

(59) "Licensed practical nurse" is defined by KRS 314.011(9).

(60) "Licensed professional clinical counselor" or "LPCC" is defined by KRS 335.500(3).

(61) "Licensed psychological associate" means an individual who:
(a) Currently possesses a licensed psychological associate license in accordance with KRS 319.010(6); and
(b) Meets the licensed psychological associate requirements established in 201 KAR Chapter 26.

(62) "Licensed psychological practitioner" means an individual who meets the requirements established in KRS 319.053.

(63) "Licensed psychologist" means an individual who:
(a) Currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and
(b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26.

(64) "Management experience" means professional or volunteer work:
(a) In an organization that served individuals with an intellectual or developmental disability; and
(b) That includes experience in the execution of the overall administration of an agency including:
1. Development, implementation, and maintenance of the agency's budget;
2. Development, review, implementation, and revisions as needed of the organization's policies and procedures; and
3. Supervision of employees or volunteers including conducting performance evaluations.

(65) "Mechanical or physical restraint" means any manual, physical, or mechanical method, device, material, or equipment that:
(a) Immobilizes or reduces the ability of a person to move his or her arms, legs, body, or head freely; and
(b) Does not include orthopedically prescribed devices or other devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a person for the purpose of:

1. Conducting routine physical examinations or tests;
2. Protecting the person from falling out of bed; or
3. Permitting the person to participate in activities without the risk of physical harm.

(66) "Medically complex" means a child who is determined to have a medical condition as defined by 922 KAR 1:495 and further described in 922 KAR 1:350, Section 6.

(67) "MWMA" means the Kentucky Medicaid Waiver Management Application internet portal.

(68) "Natural supports" means unpaid relationships and resources that participants rely on within their families and communities that:

(a) Support the participant in the community;

(b) Promote the participant's independence and well-being, including their sense of belonging, dignity, and self-esteem; and

(c) Are based on ordinary social relationships in family, friendships, school, clubs, activities, and in the community.

(69) "Neglect" is defined by KRS 209.020(16).

(70) "Participant" means a Medicaid recipient who:

(a) Meets patient status criteria for an intermediate care facility for individuals with intellectual disabilities as established in 907 KAR 1:022 or inpatient psychiatric hospitalization as established in 907 KAR 10:016;

(b) Is service authorized by the department to receive CHILD waiver services; and

(c) Utilizes CHILD waiver services and supports in accordance with a person-centered service plan.

(71) "Person-centered service plan" or "PCSP" means a written individualized plan of 1915(c) CHILD waiver services developed in accordance with the participant and family's wants, assessed needs, and preferences that may include a transition plan to a more intense or less intense level of services, and that meets the requirements of Section 7 of this administrative regulation.

(72) "Person-centered team" means a participant, the participant's legal guardian, family, or representative, and other individuals who are natural or paid supports and who:

(a) Recognize that evidenced-based decisions are determined within the basic framework of what is important for the participant and within the context of what is important to the participant and their family based on informed choice;

(b) Work together to identify what roles they shall assume to assist the participant in gaining stabilization and related skill development; and

(c) Include providers who receive payment for services who shall:

1. Be active, contributing members of the person-centered team meetings;
2. Base their input upon evidence-based information; and
3. Not request reimbursement for person-centered team meetings.

(73) "Prohibited drug" means a drug or substance that is illegal under KRS Chapter 218A or other statutes or administrative regulations of the Commonwealth of Kentucky.

(74) "Registered agent" means an individual meeting the requirements of KRS 14A.4-010(1)(b).

(75) "Registered nurse" is defined by KRS 314.011(5).

(76) "Registered office" means an office meeting the requirements of KRS 14A.4-010(1)(a).

(77) "Representative" is defined by KRS 205.5605(6).

(78) "Rights restriction" means any intervention that restricts a participant's:

(a) Movement;

(b) Access to:

1. Other individuals;
2. Locations; or
3. Activities; or

(c) Rights.

(79) "Room" means the aggregate expense of housing costs for the purpose of providing shared living, including:

(a) Rent, lease, or mortgage payments;

(b) Real estate taxes;

(c) Insurance;

(d) Maintenance; and

(e) Utilities.

(80) "Seclusion" means the involuntary confinement of a participant alone in:

(a) A room; or

(b) An area from which the participant is physically prevented from leaving.

(81) "Serious emotional disability" or "SED" is defined by KRS 200.503.

(82) "Serious medication error" means a medication error that requires or has the potential to require a medical intervention or treatment.

(83) "State plan" is defined by 42 C.F.R. 430.10.

(84) "Subcontractor" means an entity or an individual:

(a) Who is a currently credentialed professional or other service provider;

(b) Who has signed an agreement with a certified CHILD agency to provide CHILD services and supports; and

(c) To whom the employee requirements in this administrative regulation apply.

(85) "Substance use disorder" or "SUD" means individuals with a diagnosis designated in the latest edition of the Diagnostic and Statistical Manual of Mental Disorders, which reflects an individual's continued use of a substance despite significant substance related problems.

(86) "TB" means tuberculosis.

(87) "Unhoused or at risk of being unhoused" is defined by 42 U.S. Code Sec.11434a.

Section 2. General Coverage Requirements.

(1) To be eligible to receive a service in the CHILD waiver program, an individual shall:

(a) Be a child or youth up to age twenty-one (21), and classified as having a primary diagnosis of autism, developmental disability, intellectual disability, or serious emotional disability;

(b) Be designated as eligible, based on review of the child and adolescent needs and strengths (CANS) assessment;

(c) Have:

1. An approved person-centered service plan (PCSP); and
2. Prior authorization for that service pursuant to the requirements established in this administrative regulation;

(d) Meet the coverage requirements established in this administrative regulation; and

(e) Be provided services by a provider who is enrolled in accordance with this administrative regulation.

(2) The department shall ensure that duplication of services does not occur by prohibiting payment for services without prior authorization.

Section 3. 1915(c) CHILD waiver Participant Eligibility, Enrollment, and Termination.

(1) To be eligible to receive a service in the 1915(c) CHILD waiver, an individual or an individual's representative shall:

(a) Meet participant eligibility requirements:

1. Be zero (0) to twenty-one (21) years of age;
2. With an intellectual or developmental disability, or both, or severe emotional disability; and
3. Have been unresponsive to other services and supports enabling them to remain in a community setting and meet one or more of the following criteria:

a. Be currently unhoused or at risk of being unhoused as a direct result of the intensity of their disability and care needs;

b. Have a history (within the last year) of at least two different out-of-home care placements as a direct result of the intensity of their disability and care needs;

c. Within the last year, as a direct result of the intensity of the individual's disability and care needs, the individual has had any incident that involved at least five (5) contacts with:

(i) A police department;
(ii) A sheriff's office;
(iii) Emergency services; or
(iv) A fire department.

d. Be identified for discharge or recommended for discharge from an inpatient psychiatric hospital, ICF/IID, or other similar

institution, as defined in 907 KAR 1:022, Section 4 (5)(a) - (d), within the next forty-five (45) days; and

e. Require support offered through the CHILD waiver.

(b) Complete an application in MWMA with required supporting documentation to validate that the individual meets criteria for CHILD waiver program;

(2) Supporting documentation to validate that the individual meets criteria for CHILD waiver shall include:

(a) For individuals aged eight (8) and under with a reported diagnosis of intellectual or developmental disability documentation of the applicant's intellectual disability, developmental disability, or other related developmental condition diagnosis.

(b) For individuals aged nine (9) to eighteen (18) with a reported diagnosis of intellectual or developmental disability, supporting documentation shall include a psychological or psycho-educational report of assessment results that has been signed by the licensed psychologist, licensed psychological associate under supervision of a board approved licensed psychologist, certified psychologist with autonomous functioning, licensed psychological practitioner, or certified school psychologist who prepared the report. The report shall include at minimum:

1. An individual, standardized test of intelligence or test of non-verbal intelligence, that is not brief or abbreviated in nature, and which results in a Full Scale IQ or equivalent score;

2. The results of a standardized assessment of adaptive behavior abilities; and

3. Documentation ruling out factors or conditions that may contribute to diminished cognitive and adaptive functioning, including applicant's substance use, psychiatric disorders, or medical conditions.

(c) For individuals aged eighteen (18) and above with a reported diagnosis of intellectual or developmental disability, supporting documentation shall include a psychological or psycho-educational report of assessment results that has been signed by the licensed psychologist, licensed psychological associate under supervision of a board approved licensed psychologist, certified psychologist with autonomous functioning, licensed psychological practitioner, or certified school psychologist who prepared the report. The report shall include at minimum:

1. An individual, standardized test of intelligence or non-verbal intelligence that is not brief or abbreviated in nature, and which results in a Full Scale IQ or equivalent score;

2. The results of a standardized assessment of adaptive behavior abilities; and

3. The documentation provides evidence that the condition had an onset prior to age eighteen (18).

(d) For individuals with a reported SED, supporting documentation shall include:

1. A SED checklist completed by a qualified licensed behavioral professional; and

2. Any inpatient psychiatric treatment records within the last year, if applicable.

(3) A participant shall receive notification of potential CHILD funding in accordance with eligibility requirements in Section 2 of this administrative regulation.

(4) Upon receiving notification of potential CHILD funding, the participant's case manager shall upload the following into the MWMA:

(a) The results of a physical examination that was conducted within the last twelve (12) months; and

(b) Documentation of a participant's status change.

(5) To maintain eligibility as a participant, each participant shall:

(a) Maintain Medicaid eligibility requirements established in 907 KAR 20:010; and

(b) Be reassessed and meet ICF-IID or inpatient psychiatric hospitalization level of care determination criteria, in accordance with this section, annually utilizing the CANS assessment tool.

(6) 1915(c) CHILD waiver services shall not be provided to an individual who is:

(a) Receiving a service in another 1915(c) home and community-based program;

(b) Receiving a duplicate service provided through another funding source; or

(c) An inpatient of a hospital, ICF-IID, or other facility.

(7) Involuntary termination and loss of a 1915(c) CHILD waiver service shall:

(a) Be subject to an appeal or hearing in accordance with 907 KAR 1:563; and

(b) Occur when:

1. An applicant fails to access a CHILD waiver service within one-hundred twenty (120) days of receiving notice of potential funding; or

2. A participant:

a. Fails to access any services outlined in the participant's service plan for a period greater than one hundred twenty days (120) consecutive days;

b. Moves to a residence outside of the Commonwealth of Kentucky; or

c. Does not meet ICF-IID or inpatient psychiatric hospital level of care determination criteria in accordance with this administrative regulation.

(c) If initiated by a 1915(c) CHILD waiver provider:

1. At least thirty (30) days prior to the effective date of the termination, the 1915(c) CHILD waiver provider shall simultaneously notify electronically or in writing the:

a. Participant or the participant's guardian;

b. Participant's case manager; and

c. Department or its designee.

2. The participant's case manager, in conjunction with the 1915(c) CHILD waiver provider, shall immediately act to:

a. Provide the participant or participant's guardian with the name, address, and telephone number of each current 1915(c) CHILD waiver provider in Kentucky;

b. Facilitate contacts and referrals for the participant or participant's guardian in making contact with other 1915(c) CHILD waiver provider(s);

c. Arrange or provide transportation for a requested visit to a 1915(c) CHILD waiver provider site;

d. Provide a copy of pertinent information to the participant or participant's guardian;

e. Ensure the health, safety, and welfare of the participant until another provider is chosen;

f. Continue to provide supports until alternative services or another provider is secured; and

g. Provide assistance to ensure a safe and effective service transition; and

3. The notice referenced in this paragraph shall include:

a. A statement of the intended action;

b. The basis for the intended action;

c. The authority by which the intended action is taken; and

d. The participant's right to appeal the intended action through the provider's appeal or grievance process.

(8) In the instance of a voluntary termination and loss of a 1915(c) CHILD waiver service:

(a) The department or its designee shall initiate an intent to discontinue a participant's participation in the 1915(c) CHILD waiver services if the participant or participant's guardian submits a written notice of intent to discontinue services to:

1. The 1915(c) CHILD waiver provider; and

2. The department or its designee.

(b) An action to terminate 1915(c) CHILD waiver participation shall not be initiated until thirty (30) calendar days from the date of the notice referenced in paragraph (a) of this subsection.

(c) A participant or guardian may reconsider and revoke the notice referenced in paragraph (a) of this subsection in writing during the thirty (30) calendar day period.

Section 4. 1915(c) CHILD Waiver Provider Participation Requirements.

(1) A 1915(c) CHILD waiver provider shall comply with:

(a) 907 KAR 1:671 and 672;

(b) 907 KAR 7:005;

(c) The Health Insurance Portability and Accountability Act, 42 U.S.C. 1320d-2, and 45 C.F.R. Parts 160, 162, and 164;

(d) 42 U.S.C. 1320d to 1320d-8; and

(e) Local laws and ordinances governing smoke-free environments, as relevant.

(2) To provide a 1915(c) CHILD waiver service, a 1915(c) CHILD waiver provider shall:

(a) Be certified by the department or its designee prior to the initiation of a service;

(b) Be recertified by the department or its designee at least biennially;

(c) In accordance with KRS 273.182, maintain a registered agent and a registered office in Kentucky with the Office of the Secretary of State and file appropriate statement of change documentation with the filing fee with the Office of Secretary of State if the registered office or agent changes;

(d) Be in good standing with the Office of the Secretary of State of the Commonwealth of Kentucky;

(e) Abide by the laws that govern the chosen business or tax structure of the 1915(c) CHILD waiver provider;

(f) Maintain policy that complies with this administrative regulation concerning the operation of the 1915(c) CHILD waiver provider and the health, safety, and welfare of all people supported or served by the 1915(c) CHILD waiver provider; and

(g) Maintain administrative oversight, which shall include management by a director.

(3) A director shall:

(a) Lead the design, development, and implementation of strategic plans for a CHILD provider;

(b) Maintain responsibility for the day-to-day operation of the CHILD provider organization;

(c) Have at least a bachelor's degree in a human service field or be a registered nurse and have two (2) years of documented experience with the target population, and two (2) years of management experience;

(d) Have at least two (2) years of:

1. Experience in the field of intellectual or developmental disabilities or inpatient psychiatric hospitals; and

2. Management experience:

(e) Meet all personnel and training requirements specified in this section;

(f) If providing professional oversight or supervision of employees, meet the supervisory qualifications specified for each service;

(g) Assume authority and responsibility for the management of the affairs of the 1915(c) CHILD waiver provider in accordance with written policy and procedures that comply with this administrative regulation; and

(h) Participate in all department directed survey initiatives.

(4) A 1915(c) CHILD waiver provider:

(a) Shall ensure that 1915(c) CHILD waiver services are not provided to a participant by a staff person of the 1915(c) CHILD waiver provider who is a guardian, legally responsible individual, or immediate family member of the participant;

(b) Shall not agree to serve a participant whose needs the 1915(c) CHILD waiver provider is unable to meet;

(c) Shall have and follow written criteria that comply with this administrative regulation for determining the appropriateness of a participant for admission to services;

(d) Shall document:

1. Each denial by the provider for a service requested or necessary for the 1915(c) CHILD waiver participant; and

2. The reason for the denial;

(e) Shall maintain documentation of its operations including:

1. A written description of available 1915(c) CHILD waiver services;

2. A current table of organizational structure;

3. Any memorandum of understanding between a participant's case management agency and the participant's service providers;

4. Information regarding participants' satisfaction with services and the utilization of that information;

5. A quality improvement plan that:

a. Includes updated findings and corrective actions, and corrective action plans as a result of department and case management quality assurance monitoring; and

b. Addresses how the provider shall:

(i) Ensure that the participant receives person-centered 1915(c) CHILD waiver services;

(ii) Enable the participant to be safe, healthy, and respected in the participant's chosen community;

(iii) Enable the participant to live in the community with effective, individualized assistance; and

(iv) Enable the participant to enjoy living and working in the participant's community;

6. A written plan of how the 1915(c) CHILD waiver provider shall participate in the human rights committee in the area the 1915(c) CHILD waiver provider is located;

(f) Shall maintain accurate fiscal information including documentation of revenues and expenses;

(g) Shall meet the following requirements, if responsible, for the management of a participant's funds:

1. Separate accounting shall be maintained for each participant or for the participant's interest in a common trust or special account;

2. Account balance and records of transactions shall be provided to the participant or the participant's guardian on a quarterly basis; and

3. The participant or the participant's guardian shall be notified if a balance is accrued that may affect Medicaid eligibility;

(h) Shall have a written statement of its mission and values, related to the 1915(c) CHILD waiver, which shall:

1. Support participant empowerment and informed decision-making;

2. Support and assist participants to form and remain connected to natural support networks;

3. Promote participant dignity and self-worth;

4. Support team meetings that help ensure and promote the participant's right to choice, inclusion, employment, growth, and privacy;

5. Foster a restraint-free environment where the use of physical restraints, seclusion, chemical restraints, or aversive techniques shall be prohibited; and

6. Support the 1915(c) CHILD waiver goal that all participants:

a. Receive person-centered 1915(c) CHILD waiver services;

b. Are safe, healthy, and respected in the participant's community;

c. Live in the community with effective, individualized assistance; and

d. Enjoy living and working in the participant's community;

(i) Shall have written policy and procedures for communication and interaction with a participant, family, or participant's guardian, which shall include:

1. A response within seventy-two (72) hours of an inquiry;

2. The guidelines for interaction with direct support professionals;

3. Notification timelines surrounding critical and non-critical incidents;

4. Visitation with the participant at any reasonable time, without prior notice, and with due regard for the participant's right to privacy;

5. Involvement in decision making regarding the selection and direction of the person-centered service provided; and

6. Consideration of the cultural, educational, language, and socioeconomic characteristics of the participant and family being supported;

(j) Shall ensure the rights of a participant by:

1. Providing conflict-free services and supports that are person-centered; and

2. Making available a description of the rights and means by which the rights may be exercised and supported including the right to:

a. Live and work in an integrated setting;

b. Time, space, and opportunity for personal privacy;

c. Communicate, associate, and meet privately with the person of choice;

d. Send and receive unopened mail;

e. Retain and use personal possessions including clothing and personal articles;

f. Private, accessible use of a telephone or cell phone;

g. Access accurate and easy-to-read information;

h. Be treated with dignity and respect and to maintain one's dignity and individuality;

i. Voice grievances and complaints regarding services and supports that are furnished without fear of retaliation, discrimination, coercion, or reprisal;

j. Choose among service providers;

k. Accept or refuse services;

l. Be informed of and participate in preparing the PCSP and any changes in the PCSP;

m. Be advised in advance of the:

(i) Provider or providers who shall furnish services; and

(ii) Frequency and duration of services;

n. Confidential treatment of all information, including information in the participant's records;

o. Receive services in accordance with the current PCSP;

p. Be informed of the name, business, telephone number, and business address of the person supervising the services and how to contact the person;

q. Have the participant's property and residence treated with respect;

r. Be fully informed of any cost sharing liability and the consequences if any cost sharing is not paid;

s. Review the participant's records upon request;

t. Receive adequate and appropriate services without discrimination;

u. Be free from and educated on mental, verbal, sexual, and physical abuse, neglect, exploitation, isolation, and corporal or unusual punishment, including interference with daily functions of living; and

v. Be free from mechanical, chemical, or physical restraints;

3. Having a grievance and appeals system that includes an external mechanism for review of complaints; and

4. Ensuring access to participation in the local human rights committee in accordance with the human rights committee requirements established in Section 9 of this administrative regulation;

(k) Shall maintain, as applicable, fiscal records, service records, investigations, medication error logs, and incident reports for seven (7) years from the date of final payment for services;

(l) Shall make available all records, internal investigations, and incident reports:

1. To the:

a. Department or its designee;

b. Office of Inspector General or its designee;

c. Office of the State Budget Director or its designee;

d. Office of the Auditor of Public Accounts or its designee;

e. Office of the Attorney General or its designee;

f. Department for Community Based Services (DCBS); and

g. Centers for Medicare and Medicaid Services; or

2. Pertaining to a participant to:

a. The participant, the participant's guardian, or the participant's case manager upon request; or

b. Protection and Advocacy upon written request;

(m) Shall cooperate with monitoring visits from monitoring agents;

(n) Shall maintain a record in MWMA for each participant served that shall:

1. Contain all information necessary to support person-centered practices;

2. Be cumulative;

3. Be readily available;

4. Contain the following:

a. The participant's name, Social Security number, and Medicaid identification number;

b. The results of a department approved functional assessment;

c. The current PCSP;

d. The goals and objectives identified by the participant and the participant's person-centered team that facilitates achievement of the participant's chosen outcomes as identified in the participant's PCSP;

e. A list containing emergency contact telephone numbers;

f. The participant's history of allergies with appropriate allergy alerts;

g. The participant's medication record, including a copy of the signed or authorized current prescription or medical orders and the medication administration record if medication is administered at the service site;

h. A recognizable photograph of the participant;

i. Legally adequate consent, updated annually, and a copy of which is located at each service site for the provision of services or other treatment requiring emergency attention;

j. The prior authorization notifications;

k. Incident reports, if any exist;

l. The results of a physical examination that was conducted within the last twelve (12) months; and

m. Documentation of a participant's status change.

5. Be maintained by the provider in a manner that:

a. Ensures the confidentiality of the participant's record and other personal information; and

b. Allows the participant or guardian to determine when to share the information in accordance with law; and

6. Be safe from loss, destruction, or use by an unauthorized person;

(o) Shall ensure that an employee or volunteer:

1. Behaves in a legal and ethical manner in providing a service;

2. Has a valid Social Security number or valid work permit if not a citizen of the United States of America; and

3. If responsible for driving a participant during a service delivery, has a valid driver's license with proof of current mandatory liability insurance for the vehicle used to transport the participant;

(p) Shall ensure that an employee or volunteer:

1. Completes a tuberculosis (TB) risk assessment, as defined in 902 KAR 20:205, performed by a licensed medical professional (a physician, an advanced practice registered nurse, a physician assistant, a registered nurse, a licensed practical nurse, or a pharmacist), and, if indicated, a TB skin test with a negative result within the past twelve (12) months as documented on test results received by the provider within thirty (30) days of the date of hire or date the individual began serving as a volunteer; or

2. Who tests positive for TB or has a history of positive TB skin tests:

a. Shall be assessed annually by a licensed medical professional for signs or symptoms of active disease; and

b. If it is determined that signs or symptoms of active disease are present, in order for the person to be allowed to work or volunteer, is administered follow-up testing by his or her physician with the testing indicating the person does not have active TB disease;

(q) Shall maintain documentation:

1. Of an annual TB risk assessment or negative TB test for each employee who performs direct support or a supervisory function; or

2. Annually for each employee with a positive TB test that ensures no active disease symptoms are present;

(r) Shall provide a written job description for each staff person that describes the required qualifications, duties, and responsibilities for the person's job;

(s) Shall maintain an employee record for each employee that includes:

1. The employee's experience;

2. The employee's training;

3. Documented competency of the employee;

4. Evidence of the employee's current licensure or registration if required by law; and

5. An annual evaluation of the employee's performance;

(t) Shall require a background check:

1. And drug testing for each employee who is paid with funds administered by the department and who:

a. Provides support to a participant who utilizes 1915(c) CHILD waiver services; or

b. Manages funds or services on behalf of a participant who utilizes 1915(c) CHILD waiver services; or

2. For a volunteer recruited and placed by an agency or provider who has the potential to interact with a participant;

(u)

1. Shall for a potential employee or volunteer obtain:

a. The results of a criminal record check from the Kentucky Administrative Office of the Courts and equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism;

b. The results of a nurse aide abuse registry check as described in 906 KAR 1:100 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism;

c. The results of a vulnerable adult maltreatment registry check as described in 922 KAR 5:120 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism; and

d. Within thirty (30) days of the date of hire or initial date of volunteerism, the results of a central registry check as described in 922 KAR 1:470 and an equivalent out-of-state agency if the individual resided or worked outside of Kentucky during the twelve (12) months prior to employment or volunteerism; or

2. May use Kentucky's National Background Check Program established by 906 KAR 1:190 to satisfy the background check requirements of subparagraph 1 of this paragraph;

(v) Shall for each potential employee obtain negative results of drug testing for illicit substances or prohibited drugs;

(w) Shall on an annual basis:

1. Randomly select and perform criminal history background checks, nurse aide abuse registry checks, central registry checks, and vulnerable adult maltreatment registry checks of at least twenty-five (25) percent of employees; and

2. Conduct drug testing of at least five (5) percent of employees;

(x) Shall not use an employee or volunteer to provide 1915(c) CHILD waiver services if the employee or volunteer:

1. Has a prior conviction of an offense delineated in KRS 17.165(1) - (3);

2. Has a prior felony conviction or diversion program that has not been completed;

3. Has a drug related conviction within the past two (2) years;

4. Has a positive drug test conducted by the employer within the previous six (6) months for prohibited drugs;

5. Has a conviction of abuse, neglect, or exploitation;

6. Has a Cabinet for Health and Family Services finding of:

a. Child abuse or neglect pursuant to the central registry; or

b. Adult abuse, neglect, or exploitation pursuant to the vulnerable adult maltreatment registry; or

7. Is listed on the nurse aide abuse registry; or

8. Is listed on the List of Excluded Individuals and Entities maintained by the Office of Inspector General of the U.S. Department of Health and Human Services;

(y) Shall not permit an employee to transport a participant if the employee has a driving under the influence conviction, amended plea bargain, or diversion during the past year;

(z) Shall:

1. Maintain adequate staffing and supervision to implement services being billed; and

2. Ensure that any direct support professionals are managed by a direct support professional supervisor;

(aa) Shall establish written guidelines that address and ensure the health, safety, and welfare of a participant, which shall include:

1. A basic infection control plan that includes:

a. Universal precautions;

b. Hand washing;

c. Proper disposal of biohazards and sharp instruments; and

d. Management of common illness likely to be emergent in the particular service setting;

2. Effective cleaning procedures sufficient to maintain a sanitary and comfortable environment that prevents the development and transmission of infection;

3. Ensuring that each site operated by the provider is equipped with:

a. An operational smoke detector placed in all bedrooms and other strategic locations; and

b. At least two (2) correctly charged fire extinguishers placed in strategic locations, at least one (1) of which shall be capable of extinguishing a grease fire and have a rating of 1A10BC;

4. For a site operated by a provider, ensuring the availability of an ample supply of hot and cold running water with the water temperature complying with the safety limits established in the participant's PCSP;

5. Establishing written procedures concerning the presence of deadly weapons as defined in KRS 500.080, which shall ensure:

a. Safe storage and use; and

b. That firearms and ammunition are permitted:

(i) Only in non-provider owned or leased residences; and

(ii) Only if stored separately and under double lock;

6. Establishing written procedures concerning the safe storage of common household items;

7. Ensuring that the nutritional needs of a participant are met in accordance with the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council or as specified by a physician;

8. Ensuring that an adequate and nutritious food supply is maintained as needed by the participant;

9. Ensuring a smoke-free environment in settings in which the participant is expected to spend any amount of time, including home, a meeting site, or any other location;

10. Ensuring that:

a. Every case manager and any employee who shall be administering medication, unless the employee is a currently licensed or registered nurse, has:

(i) Specific training provided by a registered nurse per a department approved medication administration curriculum; and

(ii) Documented competency on medication administration, medication cause and effect, and proper administration and storage of medication; and

b. An individual administering medication documents all medication administered, including self-administered and over-the-counter drugs, on a medication administration record, with the date, time, and initials of the person who administered the medication, and ensure that the medication shall:

(i) Be kept in a locked container;

(ii) If a controlled substance, be kept under double lock and stored separately from other medications, with a documented medication count performed every shift;

(iii) Be carried in a proper container labeled with medication and dosage pursuant to KRS 315.010(9) and 217.182(6);

(iv) Accompany and be administered to a participant at a program site other than the participant's residence if necessary; and

(v) Be documented on a medication administration record and properly disposed of, if discontinued; and

11. Adhering to policies and procedures for ongoing monitoring of medication administration;

(bb) Shall establish and follow written guidelines for handling an emergency or a disaster, which shall:

1. Be readily accessible on site;

2. Include instruction for notification procedures and the use of alarm and signal systems to alert a participant according to the participant's disability;

3. Include documentation of training and competency of staff and training of participants on emergency disaster drills;

4. Include an evacuation drill to be conducted in three (3) minutes or less, documented at least quarterly and, for a participant who receives residential support services, is scheduled to include a time when the participant is asleep; and

5. Mandate that the result of an evacuation drill be evaluated and if not successfully completed within three (3) minutes shall modify staffing support as necessary and repeat the evacuation drill within seven (7) days;

(cc) Shall provide orientation for each new employee, which shall include the mission, goals, organization, and practices, policies, and procedures of the agency;

(dd) Shall require documentation of all face-to-face training, which shall include:

1. The type of training provided;

2. The name and title of the trainer;

3. The training objectives;

4. The length of the training;

5. The date of completion;

6. The signature of the trainee verifying completion; and

7. Verification of competency of the trainee as demonstrated by post-training assessments, competency checklists, or post-training observations and evaluations;

(ee) Shall require documentation of web-based training, which shall include transcripts verifying successful completion of training objectives with scores of 85% or higher; and competency checklist listing date of completion, signature of evaluator, and signature of trainee for all modules required in department approved web-based training within the timeframe specified;

(ff) Shall ensure that each case manager or employee prior to independent functioning and no later than six (6) months from the date of employment successfully completes training that shall include:

1. First aid and cardiopulmonary resuscitation certification by a nationally accredited entity;

2. Successful completion of all required department-approved web-based training for CHILD waiver providers;

3. Individualized instruction about the person-centered service plan of the participant to whom the trainee provides supports including training on behavior support plans, if applicable; and

4. Verification of trainee competency as demonstrated by department-approved training, competency checklists, and post-training observations or evaluations; and

(gg) A provider that accepts placement of a child in DCBS custody with medical complexity who is in the custody of the cabinet shall:

1. Consult with the cabinet medically complex liaison about the child prior to accepting the placement;

2. Obtain written documentation from a licensed health care provider stating that the direct care staff has received training on meeting the specific needs of the child prior to placement;

3. Submit to the cabinet medically complex liaison written documentation containing the plan to meet the child's specific medical needs based on the licensed health care provider's plan of care and the training required by subparagraph 2. of this paragraph prior to placement;

4. Ensure that services are provided in locations within a one (1) hour drive of a medical hospital with an emergency room and within a thirty (30) minute drive of a local medical facility; and

5. Require designated staff to have attended the cabinet training on children with medical complexity.

(5) A 1915(c) CHILD waiver provider, employee, or volunteer shall:

(a) Not manufacture, distribute, dispense, be under the influence of, purchase, possess, use, or attempt to purchase or obtain, sell, or transfer any of the following in the workplace or while performing work duties:

1. An alcoholic beverage;

2. A controlled substance, except a 1915(c) CHILD waiver provider, employee, or volunteer may use or possess a medically necessary and legally prescribed controlled substance;

3. An illicit substance;

4. A prohibited drug or prohibited substance;

5. Drug paraphernalia; or

6. A substance that resembles a controlled substance, if there is evidence that the individual intended to pass off the item as a controlled substance; and

(b) Not possess a prescription drug for the purpose of selling or distributing it.

(6) If transportation is provided directly, contracted for, or arranged, a provider shall require:

(a) Compliance with state laws pertaining to vehicles, drivers, and insurance;

(b) A separate seat for each child and that the child remain seated while the vehicle is in motion;

(c) That a vehicle used to transport a child provides a seat for each passenger that is manufactured standard equipment for that vehicle is available;

(d) That a child is never left unattended in a vehicle;

(e) A child under the age of eight (8) who is less than fifty-seven (57) inches tall shall not be transported unless restrained in a safety seat that meets the requirements established in KRS 189.125(3);

(f) That a seat belt or child seat be used to secure each passenger;

(g) That a vehicle shall not pick up and deliver a child under the age of six (6) to a location that requires the child to cross a street or highway unless the child is accompanied by an adult;

(h) If transportation is provided by a means other than licensed public transportation:

1. The vehicle shall be maintained in a safe mechanical and operable condition;

2. A thorough inspection of the vehicle shall be made and documented by a qualified mechanic at least annually; and

3. If the driver is not in his seat, the motor shall be turned off, keys removed, and brake set.

Section 5. Case management services provided within the CHILD waiver.

(1) Case Management

(a) Case management activities shall include:

1. Assisting participants in gaining access to waiver services and other needed services through the Medicaid state plan and other non-Medicaid funded community-based programs to support the participant's home and community-based needs.

2. Working with the participant, the participant's legal guardian, or their authorized representative and others who the participant identifies, such as immediate family member(s), in developing a person-centered service plan (PCSP).

3. Using a person-centered planning process, case managers assist in identifying and implementing support strategies to enable the PCSP to advance the participant's identified goals while meeting assessed community-based needs using waiver and non-waiver funded services. Support strategies incorporate:

a. The principles of empowerment;

b. Community inclusion;

c. Health and safety assurances; and

d.

(i) The use of formal, informal, and community supports; and

(ii) Utilizing the resultant PCSP identifies applicable unpaid natural supports and provides for transition plans when a child or youth is expected to age out or otherwise transition from the CHILD waiver program.

(b) In accordance with federal requirements, case managers adhere to the following person-centered principles during all planning, coordination, and monitoring activities that:

1. Activities are documented, and

2. The person-centered service plan is updated at least annually and more often as needed using the person-centered planning processes described in this regulation and in 42 C.F.R. 441.725.

(c) Case management may be provided in-person or virtually via telehealth (as approved in a participant's PCSP) to provide coordination and oversight to assure the following:

1. Conflict-free options counseling to select appropriate services to meet identified needs and HCBS goals, along with education about available HCBS service providers;

2. The desires and needs of the participant are determined through a person-centered planning process;

3. The development or review of the PCSP, including monitoring of the effectiveness of the PCSP to advance person-centered goals and objectives and respond to changes in participant goals and objectives;

4. The coordination of multiple services or among multiple providers;

5. Linking waiver participants to services that support their home and community-based needs, regardless of funding source;

6. Monitoring the implementation of the PCSP and participant health and welfare;

7. Addressing problems in service provision;

8. Implementing participant crisis mitigation plans and making appropriate referrals to address active or potential crisis, when appropriate;

9. Detecting, reporting, and mitigating suspected abuse, neglect, and exploitation of participants, including adherence to mandatory reporter laws, and monitoring the quality of the supports and services;

10. Assisting participants in developing and coordinating access to social networks to promote community inclusion as requested by the participant;

11. Assess the quality of services, safety of services, and cost-effectiveness of services being provided to a participant to ensure that implementation of the participant's PCSP is successful and completed in a way that is efficient regarding the participant's financial assets and benefits;

12. Collaborate with involved MCO care teams on:

a. Identifying necessary non-waiver (Medicaid and non-Medicaid funded services) to include in PCSPs;

b. Coordinate state plan non-emergency medical transportation; and

c. Other activities as required to wholly support the child or youth in the community.

(d) This service:

1. Shall be provided in-person or face-to-face via telehealth.

a. This service may be provided via telehealth at the request or benefit of the participant.

b. Participation in services via telehealth shall be documented in the PCSP.

c. Participants who are offered telehealth by the provider have the right to request and receive in-person services instead.

d. Provision of services via telehealth shall be carried out in accordance with KAR 907 3:170.

2. Shall be provided in-person, at least every other month, and shall be provided in the participant's residence at least every three (3) months.

(e) Case managers shall document the use of the identified telehealth technology in the PCSP and when appropriate, shall connect participants with trainings.

(f) A 1915(c) CHILD waiver case manager provider shall comply with the following personnel requirements of having or attaining experience or licensure:

1. Bachelor's degree in social work, human services, or a similar relevant field;

2.

a. Bachelor's degree in any field not closely related; and

b. One (1) year of human services related experience;

3. A registered nurse;

4. A behavioral health practitioner; or

5. A behavioral health practitioner under clinical supervision.

(g) A case manager shall complete department approved case management training within six (6) months of beginning to provide case management services through the CHILD waiver.

(2) A case manager shall:

(a) Be able to identify and meet the needs of the participant through coordination of Medicaid and non-Medicaid services within the participant's home and community to align with the participant's goals as identified in the functional assessment and documented in the PCSP.

(b) Be competent in the participant's language whether through possessing linguistic proficiency, fluency of the language, or through interpretation, and able to communicate effectively with a participant in the participant's preferred manner of communication and with the participant's family.

(c) Demonstrate a heightened awareness of the unique way in which the participant interacts with the world around the participant.

(d) Read, understand, and implement written and oral instructions.

(e) Perform required documentation.

(f) Demonstrate competence and knowledge of topics required to safely support the participant as described in the participant's PCSP.

(g) Ensure that:

1. The participant is educated in a way that addresses the participant's:

a. Need for knowledge of the case management process;

b. Personal rights; and

c. Risks and responsibilities as well as awareness of available services;

2. All individuals involved in implementing the participant's PCSP are informed of changes in the scope of services related to the PCSP as applicable;

3. The participant is educated on how case management services support 1915(c) CHILD waiver; and

4. Case management services are available to a participant by phone or in person:

a. Twenty-four (24) hours per day, seven (7) days per week; and

b. To assist the participant in obtaining community resources as needed to:

(i) Comply with applicable federal and state laws and requirements;

(ii) Continually monitor a participant's health, safety, and welfare; and

(iii) Complete or revise a PCSP;

(h) Have a code of ethics to guide the case manager in providing case management, which shall address:

1. Advocating for standards that promote outcomes of quality;

2. Ensuring that no harm is done;

3. Respecting the rights of others to make their own decisions;

4. Treating others fairly; and

5. Being faithful and following through on promises and commitments;

(i) Assist the participant to lead the person-centered service planning team to:

1. Take charge of coordinating services through team meetings with representatives of all agencies involved in implementing a participant's PCSP;

2. Include the participant's participation and legal guardian participation, if applicable, in the case management process; and

3. Make the participant's preferences and participation in decision making a priority;

(j) Document:

1. Interactions and communications with other agencies involved in implementing the participant's PCSP; and

2. Personal observations;

(k) Advocate for a participant with service providers to ensure that services are delivered as established in the participant's PCSP;

(l) Assess the quality of services, safety of services, and cost effectiveness of services being provided to a participant to ensure that implementation of the participant's PCSP is successful and completed in a way that is efficient regarding the participant's financial assets and benefits;

(m) Utilize the MWMA to fulfill case management responsibilities, including:

1. Documenting that the participant's health, safety, and welfare are not at risk;

2. Gathering data regarding the participant's satisfaction with the services for use in guiding the person-centered planning process; and

3. Recording how the person-centered team shall address the following:

a. Expanding and deepening the participant's relationships;

b. Increasing the participant's presence in local community life; and

c. Helping the participant to have more choice and control; and

4. Document via an entry into the MWMA, when available, if a participant is:

a. Terminated from a waiver program;

b. Admitted to a hospital;

c. Unable to access services;

d. Admitted to an intermediate care facility;

e. Admitted to a nursing facility;

f. Modifying providers and services;

g. Changing the case management agency;

h. Transferred to another Medicaid 1915(c) home and community-based waiver service program; or

i. Relocated to a different address;

(n) Complete the required National Center on Advancing Person-Centered Practices and Systems (NCAPPS) Training;

(o) Present to or engage with a human rights committee on the participant's behalf as needed; and

(p) Ensure that rights restrictions are reviewed at least every six (6) months or less, as determined necessary by the human rights committee.

(3) Case management for any participant who begins receiving 1915(c) CHILD waiver services after the effective date of this administrative regulation shall be conflict free except as allowed in paragraph (b) of this subsection.

(a) Conflict free case management shall be a scenario in which a provider, including any subsidiary, partnership, not-for-profit, or for-profit business entity that has a business interest in the provider who renders case management to a participant, shall not also provide another 1915(c) CHILD waiver service to that same participant.

(b) An exemption to the conflict free case management requirement shall be granted if:

1. The participant's case manager provides accurate documentation of evidence to the department or its designee that there is a lack of a qualified case manager within thirty (30) miles of the participant's residence; and

2. The participant or participant's representative and case manager shall submit the Conflict Free Case Management Exemption within the MWMA.

(c) If a case management service is approved to be provided despite not being conflict free, the case management provider shall:

1. Document conflict of interest protections;

2. Separate case management and service provision functions within the provider entity; and

3. Demonstrate that the participant is provided with a clear and accessible alternative dispute resolution process.

(d) An exemption to the conflict free case management requirement shall be requested upon re-evaluation or at least annually.

(4) A case management agency providing case management to a 1915(c) CHILD waiver participant shall not make a referral to any 1915(c) CHILD waiver services provider to provide services for the same participant if the provider agency has an individual with an ownership interest who is an immediate family member of an individual with an ownership interest in the referring case management agency.

(5) Case management shall:

(a) Assist a participant in the identification, coordination, arrangement, and facilitation of the person-centered team and person-centered team meetings;

(b) Assist a participant and the person-centered team to develop an individualized PCSP and update it as necessary based on changes in the participant's medical condition and supports;

(c) Assist a participant to gain access to and maintain employment, membership in community clubs and groups, activities, and opportunities at the times, frequencies, and with the people the participant chooses;

(d) Be provided by a case manager who:

1. Meets the requirements of subsection (1) of this section;

2. Shall provide a participant and legal representative with a listing of each available 1915(c) CHILD waiver provider in the service area;

3. Shall maintain documentation signed by a participant or legal representative of informed choice of a 1915(c) CHILD waiver provider and of any change to the selection of a CHILD waiver provider and the reason for the change;

4. Shall provide a distribution of the crisis prevention and response plan, transition plan, PCSP, and other documents within the first thirty (30) days of the service to the chosen 1915(c) CHILD waiver service provider and as information is updated;

5. Shall provide twenty-four (24) hour telephone access to a participant and chosen 1915(c) CHILD waiver provider;

6. Shall work in conjunction with a 1915(c) CHILD waiver provider selected by a participant to develop a crisis prevention and response plan, which shall be:

a. Individual-specific and person-centered;

b. Updated as a change occurs; and

c. Reviewed and updated as necessary at each recertification; and

(e) Case management under the CHILD 1915(c) waiver shall not duplicate or supplant targeted case management or care coordination offered under the Medicaid state plan or a child's MCO, respectively.

(6) A monthly summary for case management shall follow the calendar month, shall be inclusive of all service dates within the calendar month, and shall be written and available for review in the MWMA no later than fifteen (15) business days following the last day of the month. The monthly summary shall contain:

(a) A description of progress toward the participant's outcome(s) as noted by the pertinent waiver requirements;

(b) Reflect the monitoring of the services;

(c) Documentation of pertinent contacts and communications conducted with or on behalf of the participant;

(d) If the participant has a guardian, regular check-ins with the guardian;

(e) Month and year for the time period the note covers; and

(f) Name, date, title, and signature of the person completing the summary.

(7) The case manager shall have these additional PCSP monitoring requirements:

(a) All service documentation shall be reviewed by the case manager to assist with monitoring services for each participant;

(b) A case manager shall address concerns with the quality of services or documentation with a provider as part of managing the PCSP;

(c) A case manager shall ensure that documentation thoroughly addresses:

1. The current status of the client;

2. The services utilized to address specific goals established in the PCSP; and

3. Resolution of any concern expressed by the client or provider.

(8) A case management agency providing case management services pursuant to this section shall employee a case manager supervisor to oversee case managers and case management duties pursuant to this administrative regulation.

Section 6. Covered Services. Services shall be covered under this administrative regulation in accordance with the requirements established in this section.

(1) Respite.

(a) Respite services are provided to CHILD waiver participants who are unable to independently care for themselves.

(b) Respite services are provided on a short-term basis due to the absence of or need for relief of the primary caregiver.

(c) Respite may be provided in a variety of settings including:

1. The participant's own residence;

2. In the community; or

3. A CHILD certified residential setting.

(d) A provider may not use another person's bedroom or another person's belongings to provide respite for a different person.

(e) Respite care shall not be furnished for the purpose of compensating relief or to substitute staff for a supervised residential care agency staff member. The costs of any substitute residential care agency staff shall be met from payments for supervised residential care services.

(f) Respite provided under the CHILD waiver shall not supplant educational services available under the IDEA (20 U.S.C. 1401 et seq.).

(g) Respite services made available through the CHILD waiver shall not supplant or duplicate similar services available under the Kentucky Medicaid state plan.

(h) The following limitations shall apply to the respite service as provided under the CHILD waiver:

1. Unit of service: fifteen (15) minutes.

2. Limited to 830 hours per waiver eligibility span, unless otherwise approved through the established exceptional review process pursuant to 907 KAR 2:725.

3. Children and youth currently authorized and receiving supervised residential care shall not receive respite services.

4. Respite shall not be authorized during school hours except when the CHILD waiver participant is unable to attend school or receive educational services due to a disciplinary exclusion, if the

CHILD waiver participant attends a partial school day, or when the CHILD waiver participant receives educational services while in a home-hospital setting.

(i) Service documentation requires the use of electronic visit verification and shall align with 21st Century Cures Act.

(j) A respite service shall be documented in the MWMA by a note which shall be entered at the time the service is rendered and shall include:

1. The participant's health, safety, and welfare;
2. Type of service provided;
3. Name of the individual receiving the service;
4. The date of the service;
5. Location of the service (not specific address);
6. The beginning and ending times of service provision; and
7. The signature and title of the individual providing the service.

(2) Community living supports.

(a) Community living supports assists enrolled children and youth with age-appropriate tasks that would otherwise be accomplished but for the participant's disability.

(b) Community living supports are intended to provide direct one-on-one assistance, including:

1. Assistance, as described in (3)(b);
2. Support, which shall include reminding, observing, and guiding; and
3. Training in activities such as:

a. ADLs such as bathing, eating, dressing, toileting, transferring;

b. IADLs such as shopping; money management, meal preparation or light housework;

c. Medication monitoring; or

d. Non-medical care not requiring nurse or physician intervention.

(c) Community living supports also includes:

1. Socialization;
2. Relationship building; or
3. Leisure choice and participation in generic community activities.

(d) Community living supports facilitates independence and promotes integration into the community.

(e) Community living supports are based upon therapeutic goals, are not diversional in nature, and are not intended to replace other work or day activities.

(f) This service may take place in an individual's home or the community, based on the child or youth's assessed needs and in accordance with the approved PCSP.

(g) Community living supports shall only be authorized for children or youth who are not currently authorized to receive and receiving supervised residential care, unless the conditions noted in paragraphs (p)-(s) of this subsection are otherwise met.

(h) Community living supports shall not be authorized during school hours except:

1. When the CHILD waiver participant is unable to attend school or receive educational services due to a disciplinary exclusion;
2. If the CHILD waiver participant attends a partial school day; or
3. When the CHILD waiver participant receives educational services while in a home-hospital setting.

(i) Providers of community living supports shall be limited to certified waiver providers.

(j) Legally responsible individuals, relatives (as consistent with 922 KAR 2:160), and guardians shall be prohibited from becoming providers of community living supports for their child, relative, or ward.

(k) Community living supports shall not be available when medically necessary personal care is covered by EPSDT.

(l) Community living supports are limited to additional services intended to avoid institutionalization that are not otherwise covered under the Kentucky Medicaid state plan, including EPSDT.

(m) Community living supports shall not supplant education services available under the IDEA.

(n) Community living supports shall be limited to 448 fifteen (15)-minute units (112 hours) per week, with no more than sixteen (16) hours per day delivered, unless otherwise approved through the established exceptional review process as enumerated in Kentucky 907 KAR 2:725.

(o) Community living supports shall not be authorized for children or youth who are currently authorized and receiving supervised residential care, unless the participant's person-centered service plan includes documented evidence that the individual and their support system are reintegrating the individual back to the individual's family (including foster parent's) residential home. When participants are working to reintegrate into their family (including foster parent's) home, these additional community living supports restrictions shall apply:

1. Authorizations shall be limited to no more than a total of eighty (80), fifteen (15) minute units per week; and
2. Authorization shall expire if the child or youth is no longer actively working towards reintegration.

(p) Documentation requirements for 1915(c) CHILD waiver community living supports providers:

1. Service documentation shall require the use of Electronic Visit Verification as outlined in the 21st Century Cures Act.
2. A community living supports service shall be documented in the MWMA by a note, which shall be entered at the time the service is rendered and shall include:

a. The participant's health, safety, and welfare;

b. Type of service provided;

c. Name of the individual receiving the service;

d. The date of the service;

e. Location of the service (not specific address);

f. The beginning and ending times of service provision; and

g. The signature and title of the individual providing the service.

3. Documentation shall be person centered and reflect the support provided to the participant, including:

a. The goal from the PCSP addressed by the service;

b. The activity completed to meet the goal and the outcome;

c. How the participant responded to the service; and

d. Any progress or lack thereof toward the goals and objectives reflected on the PCSP.

(3) Environmental and Minor Home Modifications.

(a) Environmental and minor home modifications consist of any necessary adaptations to a private or family residence required to ensure the child or youth's health, welfare, and safety.

(b) Environmental and minor home modifications shall be delineated in the PCSP and may include adaptations to the home such as:

1. Installation of ramps and grab-bars;
2. Wheelchair accessibility modifications, including widening of doorways, lowering of counters/cabinets, and modification of bathroom facilities; or
3. Installation of specialized electric and plumbing systems that are necessary to accommodate those medical equipment and supplies which are necessary for the welfare of the individual.

(c) Environmental and minor home modifications shall not include certain adaptations or improvements to the home that are not of direct medical or remedial benefit to the waiver participant.

(d) Approval from the department shall be required for requested items not included pursuant to paragraph (b) of this subsection when a clinician overseeing the child or youth's care provides documentation of the medical need.

(e) Environmental and minor home modifications may be authorized up to 120 days prior to discharge of a child or youth transitioning from an ICF/IID or an inpatient psychiatric hospital to a family, guardian, or foster care home.

(f) Environmental and minor home modifications shall not be reimbursed by the department until the date a child or youth is enrolled in the waiver following discharge from the institution.

(g) Adaptations that add to the total square footage of the home shall be excluded from this benefit except when necessary to complete an adaptation.

(h)

1. Environmental and minor home modifications may be approved for children and youth living in a family, guardian, or foster care home.

2. Children and youth who are residing in a supervised residential care setting shall not be authorized for environmental and minor home modifications.

(i) Environmental and minor home modifications shall be limited to additional services intended to avoid institutionalization that are not otherwise covered under the Kentucky Medicaid state plan, including EPSDT.

(j) Environmental and minor home modifications, shall be provided:

1. In accordance with applicable state and local building codes; and

2. By a vendor who shall be in good standing with the Office of the Secretary of State.

(k) Environmental and minor home modifications shall have a CHILD waiver lifetime cost limit as established pursuant to 907 KAR 2:725, unless otherwise approved through the established exceptional review process.

(l) Documentation requirements for 1915(c) CHILD waiver environmental and minor home modifications providers shall include:

1. A description of each adaptation purchased;

2. A receipt for every adaptation made, which shall include the:

a. Date of purchase;

b. Description of the item;

c. Quantity and per unit price; and

d. Total amount of the purchase.

3. The signature and title of the case manager; and

4. The date the entry was made in the record.

(4) Clinical Therapeutic Services.

(a) Clinical therapeutic services shall be for the purpose of supporting children, youth, and their families, based on assessed needs, in understanding, mitigating, and providing long term solutions for behavior challenges.

(b) This service is designed to provide family crisis prevention and stabilization supports to the waiver enrolled child or youth, primary caregiver, or family (including foster care families).

(c) Clinical therapeutic services may be used to support other waiver providers, with the exception of those providing environmental and minor home modifications, working with a child or youth on the types of prevention and stabilization techniques best suited to the child's needs.

(d) Activities provided through clinical therapeutic services to achieve the service's intended outcomes include:

1. Identification of behavioral triggers through review of the CANS assessment and other clinical or therapeutic documentation to identify behavioral triggers that may lead to crisis situations or escalated negative behaviors;

2. Training for primary caregivers in trauma-informed methods for:

a. Preventing crisis; mitigation and support techniques for when crises occur; and

b. Implementation of positive coping strategies to directly address crisis or negative behavior escalation.

3. Development and incorporation of individualized wraparound support plans within a PCSP, as informed by the CANS and other clinical or therapeutic documentation to prevent crisis or escalated negative behaviors.

4. Parental and family support (e.g. family-to-family networking).

5. Assistance to the child or youth in the acquisition, retainment, or improvement of age-appropriate behavior and social skills necessary to help avoid institutionalization. Assistance may take the form of:

a. Training the youth, family, or provider in stabilization techniques;

b. Working with the individual, family, or provider to identify triggers and developing person-centered approaches for preventing behavioral crisis prior to occurrence; and

c. Assisting the waiver enrolled individual in acquiring, retaining, and improving areas of self-help and socialization.

6. Additional activities that may occur in situations in which a child or youth is stepping down from institutional care or is otherwise transitioning between residential settings may include:

a. Support for establishing or re-establishing the child or youth in a family home, foster home, or other community-based residential setting, such as:

(i) Development of schedules;

(ii) Practices; or

(iii) Expectations within the new setting;

b. Implementation of specialized behavior management techniques focused on mitigating disruptions resulting from the transition; or

c. Other activities as deemed appropriate by the child or youth's family, foster family, and broader care team to effectively mitigate the impacts of transitions out of and between institutional or residential settings.

(e) This service may take place in an individual's home or the community, based on the child or youth's assessed needs and in accordance with the approved PCSP.

(f) The appropriate staffing ratio shall be determined based on assessed needs and unique circumstances of the individual and family with input from the individual's case manager.

(g) Clinical therapeutic services shall be limited to additional services intended to avoid institutionalization that are not otherwise covered under the Kentucky Medicaid state plan, including EPSDT.

(h) Clinical therapeutic services shall be initially limited to 160 units per year, unless otherwise approved through the established exceptional review process pursuant to 907 KAR 2:725.

(i) Documentation requirements for 1915(c) CHILD waiver clinical therapeutic services providers.

1. A clinical therapeutic service shall be documented in the MWMA by a note which shall be entered within seventy-two (72) hours from the date of the service being rendered and shall include:

a. The participant's health, safety, and welfare;

b. Description of the service provided;

c. The date of the service;

d. Location of the service (not specific address);

e. The beginning and ending times of service provision; and

f. The signature and title of the individual providing the service.

2. Documentation shall be person centered and reflect the support provided to the participant, including:

a. The goal from the PCSP addressed by the service;

b. The activity completed to meet the goal and the outcome;

c. How the participant responded to the service;

d. Any progress or lack thereof toward the goals and objectives reflected on the PCSP; and

e. Family collateral, telephone and other significant contacts or collateral information shall also be recorded in the staff notes.

(5) Supervised Residential Care.

(a) Supervised residential care shall be focused on children and youth who require twenty-four (24) hour intense residential services.

(b) The supports provided in a supervised residential care setting shall be individually tailored to assist with the acquisition, retention, or improvement in skills related to living in the community.

(c) Supervised residential care shall be intended to support children or youth who are:

1. Discharged from a psychiatric hospital or ICF/IID but are not yet able to return back to their family, guardian, or foster care residence;

2. Unable to be cared for within their family, guardian, or foster care residence due to high-risk behaviors or complex medical conditions, but who do not wish to receive services in an appropriate institutional setting; or

3. Currently unhoused as a result of their disability and care needs and who are unable to access appropriate community-based supports through another funding source.

(d) Supervised residential care supports include:

1. Adaptive skill development;

2. Assistance with activities of daily living;

3. Community inclusion; or

4. Social and leisure skill development to assist the child or youth to reside in the most integrated setting appropriate to his/her needs.

(e) Supervised residential care shall be delivered in a home or community setting, which shall not include:

1. A nursing facility;

2. An institution for mental disease; or

3. An intermediate care facility for individuals with intellectual disability.

(f) The supports required for each participant shall be outlined in their PCSP.

(g) Supervised residential care services shall also include:

1. Protective oversight and supervision;

2. Transportation;

3. Personal assistance; or

4. The provision of medical and health care services that are integral to meeting the daily needs of residents.

(h) Supervised residential care settings shall have no more than three (3) residents at any given time.

(i) To the extent feasible, supervised residential care settings shall not serve children or youth for whom there is an age difference of more than five (5) years between the oldest and youngest resident, unless the children are siblings, and efforts shall be made to provide children and youth with alternative setting choices where there is not an age difference of more than five (5) years between residents.

(j) Case managers are required to aid in finding supervised residential care settings that meet the individual safety needs of the participant to prevent harm to themselves or others.

1. To meet the requirement in this paragraph, the case manager shall conduct a supervised residential care provider review of individual PCSPs and health risk screening results, prior to placement.

2. A child with a history of aggressive behavior or sexual acting out shall be assessed by their treatment team to ensure the safety of the child and other children in the home and community with the appropriate safety measures documented in the PCSP.

(k) The agency providing supervised residential care shall be responsible to arrange for or provide transportation to:

1. A family, guardian, or foster care home;

2. School, as applicable;

3. A place of employment, as applicable; or

4. Other community locations when the provision of transportation covered pursuant to 907 KAR 3:066 is unavailable.

(l) Supervised residential care may include the provision of up to five (5) unsupervised hours per day per child or youth who is at least eighteen (18) years of age as identified in the PCSP. Unsupervised hours shall be intended to promote increased independence and are based on the individual needs of a child or youth as reflected in the PCSP. These general restrictions shall apply to any unsupervised time:

1. Participants who cannot safely be unsupervised shall not be unsupervised. For each child or youth approved for any unsupervised time, a safety plan shall be created based upon their assessed needs.

2. Unsupervised hours shall not be authorized solely due to staffing shortages or lack of qualified staff coverage.

3. Unsupervised hours shall be intended to facilitate transition planning and community integration towards developing independence.

(m) The case manager, as well as other team members, shall ensure the child or youth is able to implement the safety plan.

(n) Ongoing monitoring of the safety plan, procedures, or assistive devices required shall be conducted by the case manager to ensure relevance, ability to implement, and functionality of devices if required.

(o)

1. If a child or youth experiences a change in support needs or status, adjustments in supervised residential care shall be made to meet the support needs.

2. If a change in support need or status is anticipated to be chronic (lasting more than three (3) months), the supervised residential care provider may request reassessment to determine if needs have changed.

(p) Any increase in funding based on assessed needs shall be used for provision of additional supports, as outlined in a revised PCSP and approved through the exceptional supports process.

(q)

1. Cameras shall be prohibited in bedrooms and bathrooms.

2. Provider-owned or leased residences where supervised residential care services are furnished shall be compliant with the Americans with Disabilities Act (PL No: 101-336) based on the needs of the persons supported.

(r) Payment shall not be made for the cost of room and board, including the cost of building maintenance, upkeep and improvement.

1. The method by which the costs of room and board are excluded from payment for supervised residential services is specified in 907 KAR 2:725.

2. Supervised residential services shall be furnished in a provider-owned or leased residence.

(s) Children and youth authorized and receiving supervised residential care may not be authorized to receive respite, community living supports, or environmental and minor home modifications, unless otherwise noted in the service definitions and limitations of these other CHILD waiver services.

(t) Supervised residential care shall be limited to additional services not otherwise covered under the state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

(u) The participant's guardian shall be notified and approve any changes to the location in which residential services are being provided prior to any changes being made.

(v) The participant and their guardian have the right to have input on choice of roommates and preferences in staff.

(w) The supervised residential care provider shall notify the case manager in advance of any changes and document the discussion and decisions made by the team.

(x) Supervised residential care shall be limited to one (1) unit per participant per calendar day.

(y) These additional documentation requirements for 1915(c) CHILD waiver supervised residential care shall apply:

1. A daily note which shall be entered within seventy-two (72) hours from the date of the service being rendered and shall describe relevant services and activities in which the participant participated and shall include:

a. The participant's health, safety, and welfare;

b. Description of the service provided;

c. The date of the service;

d. Location of the service (not specific address);

e. The beginning and ending times of service provision; and

f. The signature and title of the individual providing the service;

2. Relevant services and activities included in the note shall include:

a. Skills training, including adaptive skill development;

b. Assistance with ADLs;

c. Community inclusion;

d. Social and leisure development;

e. Protective oversight or supervision;

f. Transportation;

g. Personal assistance provided;

h. The provision of medical or health care services; and

i. A copy of the participants immunization records as defined in 902 KAR 2:060.

3. Documentation shall be person centered and reflect the support provided to the participant, including:

a. The goal from the PCSP addressed by the service;

b. The activity completed to meet the goal and the outcome;

c. How the participant responded to the service; and

d. Any progress or lack thereof toward the goals and objectives reflected on the PCSP.

Section 7. Person-Centered Service Plan Requirements.

(1) The enrollment notice sent to the child or youth shall advise the CHILD participant and the participant's legal guardian or authorized representative, if applicable, that they shall select a case manager to initiate service planning prior to receiving CHILD waiver services.

(2)

(a) The enrollment notice shall contain instructions on how to access information on case management agencies so that the participant may initiate contact and selection of a case manager.

(b) When a case management agency is selected, that agency is able to be associated with the participant in the MWMA and a case manager can be assigned.

(3) The participant's PCSP shall be developed utilizing completed assessments and screenings, including the CANS and other medical and behavioral assessments as applicable.

(4) The person-centered planning process and development of the PCSP shall take place as follows:

(a) Identify individuals that comprise a participant's support system and their roles on the participant's person-centered team as defined in Section 1.

(b) A participant and their legal guardian may designate any family, friends, and other caregivers, both paid and unpaid, to participate in this process.

(c) The case manager shall document the individuals included in the person-centered team on the department approved form and upload it to MWMA.

(d) The case manager shall document when a support is removed from the person-centered planning team.

(e)

1. For the development of the initial PCSP, the full person-centered planning team shall participate.

2. For the annual redetermination of the PCSP, the child or youth and the participant's guardian or authorized representative, if applicable, has final authority to determine whether there is satisfactory team participation to conduct the PCSP annual review meeting.

(f) The case manager shall document how information about the meeting was provided to absent members.

(g) Members of the person-centered planning team who do not attend the annual review meeting or who attend by phone shall provide written attestation that they understand the contents of the PCSP and can support the participant's service needs at the requested amount, frequency, and duration.

(h) Once the person-centered planning team is confirmed, the case manager shall complete the primary activities:

1. The team shall collectively review the findings of the participant's assessment. This process includes documenting any non-Medicaid paid or unpaid support including information on the access and limitations of such supports and Medicaid state plan services. For annual review meetings, the team shall also review the participant's current PCSP.

2. The team shall work collectively under the leadership of the participant and the participant's legal guardian or authorized representative, if applicable, to complete an additional review of the participant's person-centered planning needs and wishes to establish goals and objectives that enhance health, safety, and welfare, community-based independence, community participation, and quality of life.

3. Not all goals and objectives shall be accomplished using 1915(c) CHILD waiver funded services.

(i) The process of setting goals shall include education and team support for the participant and the participant's legal guardian or the participant's authorized representative, if applicable.

(j) Goals and objectives for all services on the PCSP shall be:

1. Stated clearly;

2. Measurable;

3. Attainable;

4. Relevant;

5. Time-bound; and

6. Adhere to specifications detailed in the approved CMS CHILD waiver application.

(k) Goals and objectives shall be documented, including:

1. An inventory of a participant's personal preferences;

2. Individualized considerations for service delivery; and

3. Information about the participant's needs, wants, and future aspirations.

(l) The results of the conversation or meeting documenting the goals and objectives shall be:

1. Included in the PCSP, which is housed in MWMA; and

2. Signed by the participant and the participant's legal guardian or authorized representative, if applicable.

(m) The case manager, and all other individuals responsible for the implementation of services shall demonstrate this information:

1. Was collected;

2. Was shared with all person-centered team members; and

3. Is accessible to inform ongoing development and implementation of the PCSP.

(n) The case manager shall provide education on available service options to meet a participant's person-centered goals and objectives as established in Section 3(1), using the process for educating the participant and other team members on service providers as described in Section 6(2)(e).

(o)

1. Once a child or youth and the participant's legal guardian or authorized representative, if applicable, selects providers to deliver services pursuant to the frequency and amount, the case manager shall facilitate the referral process.

2. After the person-centered planning process has taken place, the case manager shall acquire the signatures of all the team members, including:

a. The participant and the participant's legal guardian or authorized representative, if applicable;

b. The case manager; and

c. All 1915(c) waiver providers.

3.

a. Prior authorization of service shall not be valid without signatures; and

b. Prior authorization of service shall be necessary prior to delivery of service.

4. Services rendered prior to signed attestation of understanding of the contents of the PCSP by all parties required pursuant to subparagraph 2. shall not be reimbursed.

(p) The case manager shall:

1. Ensure that the scope, frequency, amount, and duration of services falls within the allowable utilization criteria and limitations set by the CMS approved 1915(c) CHILD waiver;

2. Clearly document any planned changes in utilization anticipated over the course of the year, including:

a. Any anticipated change in utilization while a participant under the age of 18 is out of school for the summer; or

b. Anticipated increases due to anticipated changes in caregiver availability; and

3. Maintain documentation showing that all:

a. Needs identified through the functional assessment are addressed via unpaid or paid supports; and

b. Paid services are appropriate in amount, duration, and frequency as identified by the functional assessment.

(5) Initial development of the PCSP for a new participant shall involve these steps and requirements:

(a) Once the assessment is complete and the participant chooses a case manager, the participant and the participant's legal guardian or authorized representative, if applicable, shall begin the process of developing the PCSP with the case manager's assistance.

(b) Upon acceptance of a new participant, the case manager shall conduct an initial in-person visit to begin the person-centered planning process.

(c) Person-centered service planning and development of the PCSP shall follow the steps described pursuant to subsection (4) of this section.

(d) A participant's PCSP shall be updated on at least an annual basis.

(e) If a case manager chooses to attend the functional assessment, the case manager shall support the participant in answering questions and not answer questions on the behalf of the participant or influence the participant's response or lack of response.

(f) Person-centered service planning may begin forty-five (45) calendar days prior to the end of the current level of care period, pending the completed level of care evaluation.

(g) The PCSP shall be completed and uploaded to MWMA at least seven (7) calendar days prior to the end of the current level of care period.

Section 8. Ongoing Management and Use of the PCSP.

(1) A participant and a participant's legal guardian, if applicable, may request a modification to their PCSP due to changes in their condition or service needs at any time.

(2) Throughout the course of plan monitoring, the case manager shall address instances when a modification to the PCSP may be appropriate.

(3)

(a) The case manager shall not initiate any modification to the PCSP without the consent of the participant and the participant's legal guardian, if applicable.

(b) The service providers affected by an event-based modification to the PCSP shall be involved in the modification process as well.

(4) Certain modifications or event-based circumstances may require the completion of an updated CANS assessment of the participant's needs and necessary adjustments to the participant's PCSP. These events or modifications that may merit completion of a functional assessment outside of the annual assessment cycle include:

(a) Inpatient admission to an institutional care setting with changes at discharge in functional ability from previous assessment;

(b) Change in care setting that increases the participant's level of care needs, including transitions between community-based settings such as moving from a participant's own home to a residential setting;

(c) Long-term change in access to or ability of an unpaid caregiver to provide care; and

(d) Observed or reported changes that result in the inability of the participant to meet goals and objectives based on the current PCSP.

(5) If circumstances necessitate initiation of an event-based assessment pursuant to subsection (4) of this section, the case manager shall:

(a) Request an updated CANS assessment in MWMA;

(b) After completion of the updated CANS assessment, review the updated assessment;

(c) Share information about the assessment outcomes with the participant and the participant's legal guardian, if applicable; and

(d) Work with the participant, and any members of the participant's person-centered team as requested by the participant, to modify the PCSP to address any requested or necessary modifications.

(6)

(a) An updated PCSP shall be signed by:

1. The participant and the participant's legal guardian, if applicable;

2. The case manager; and

3.

a. Any new service providers;

b. Providers for whom the scope, amount, or duration of service has been adjusted from what was previously agreed; or

c. Providers for whom services have been impacted.

(b) Any signatures required by paragraph (a) of this subsection shall not be obtained until the person-centered planning process and the PCSP are complete.

(7) The updated PCSP shall remain in effect until the end of the participant's original enrollment year.

(8) An event-based functional assessment shall not eliminate the need for a participant's annual PCSP redetermination.

(9) All providers delivering services shall be responsible for reviewing changes and working with the participant's case manager and person-centered team to make any adjustments or deploy mitigation strategies to ensure continuity of care.

(10) A case manager shall not maintain a case load of more than thirty (30) participants during any monthly period.

Section 9. Human Rights Committee.

(1) A human rights committee shall meet on a routine, scheduled basis, no less than quarterly, to ensure that the rights of participants utilizing 1915(c) CHILD waiver services are respected and protected through due process review of any modifications of home and community-based settings as listed under 42 C.F.R. 441.301(c)(4)(vi)(A) through (D).

(2) A human rights committee shall include at least:

(a) One (1) self-advocate;

(b) One (1) member from the community at large with experience in developmental disabilities or SED;

(c) One (1) appointed guardian or family member of a 1915(c) waiver participant;

(d) One (1) professional in the medical field; and

(e) One (1) professional with:

1. A bachelor's degree from an accredited college or university; and

2. Three (3) years of experience in the field of child behavioral health or developmental disabilities.

(3) Each 1915(c) CHILD waiver provider shall:

(a) Actively participate in the human rights committee process of the local human rights committee; and

(b) Provide the necessary documentation to the local human rights committee for review and approval prior to:

1. Implementation of any rights restrictions; or

2. Positive behavior support plans involving rights restrictions.

(4) A human rights committee meeting shall have a quorum of at least three (3) members, including at least one (1) self-advocate and one (1) community at large member.

(5) A human rights committee shall:

(a) Maintain a record of each meeting; and

(b) Send a summary of each PCSP reviewed to the:

1. Relevant participant; or

2. Participant's guardian and case manager.

(6) Each member of a human rights committee shall:

(a) Complete an orientation approved by department or its designee;

(b) Sign a confidentiality agreement; and

(c) Function in accordance with the Health Insurance Portability and Accountability Act codified as 45 C.F.R. Parts 160, 162, and 164.

(7)

(a) A human rights committee shall ensure that any restriction imposed on a participant is:

1. Temporary in nature;

2. Defined with specific criteria outlining how the restriction is to be imposed;

3. Paired with learning or training components to assist the participant in eventual reduction or elimination of the restriction;

4. Removed upon reaching clearly defined objectives; and

5. Reviewed by the human rights committee at least once every six (6) months if the restriction remains in place for at least six (6) months.

(b) In an emergency where there is imminent danger or potential harm to a participant or other individuals, the participant's 1915(c) CHILD waiver service provider, in consultation with the case manager and participant's guardian, as appropriate, may limit or restrict the participant's rights for a maximum of one (1) week.

(c) If a participant is under the care of a psychologist, counselor, psychiatrist, or behavior support specialist, a restriction plan:

1. Shall be developed with the input of the psychologist, counselor, psychiatrist, or behavior support specialist; and

2. May be implemented for up to two (2) weeks.

(d) A proposed continuation of a restriction shall be immediately reviewed and approved by three (3) members of the local human rights committee while alternative strategies are being developed.

(e) If a rights restriction needs to be continued and addressed in the participant's PCSP, the restriction shall be submitted to the local human rights committee at the next regularly scheduled meeting.

Section 10. Behavior Intervention Committee.

(1) A behavior intervention committee shall include at least:

(a) One (1) self-advocate, representative, or family member;

(b) At least one (1) member from the community at large with experience in human rights issues or in the field of intellectual or developmental disabilities;

(c) One (1) professional in the medical field; and

(d) At least one (1) of the following:

1. A positive behavior support specialist;
2. A licensed psychologist;
3. A certified psychologist; or
4. A licensed clinical social worker.

(2)

(a) A behavior intervention committee shall meet at least quarterly to review, approve, and as necessary, make written technical recommendations for each new or revised positive behavior support plan as submitted.

(b) A behavior intervention committee meeting shall have a quorum of at least three (3) members including at least one (1):

1. Self-advocate, representative, or family member; and
2. Member from the community at large with experience in:

a. Human rights issues; or

b. The field of intellectual or developmental disabilities.

(3) A behavior intervention committee shall ensure that:

(a) Positive behavior supports are clinically sound and based on person-centered values considering what is important for the participant;

(b) Assessments and interventions utilize evidenced based and best practices for treatment of a behavioral health condition as the primary support services when supplemental behavioral interventions are needed;

(c) The use of both behavioral health treatment and positive behavioral supports shall be utilized in a collaborative manner; and

(d) A new or revised positive behavior support plan is not implemented until it is approved by:

1. The behavior intervention committee; and
2. If rights restrictions are recommended, the human rights committee.

(4) A behavior intervention committee shall:

(a) Maintain a record of each meeting; and

(b) Send a summary of each person-centered service plan reviewed to the:

1. Relevant participant; or
2. Participant's guardian and case manager.

(5) Each behavior intervention committee member shall:

(a) Complete an orientation approved by department or its designee;

(b) Sign a confidentiality agreement; and

(c) Function in accordance with the Health Insurance Portability and Accountability Act codified as 45 C.F.R. Parts 160, 162, and 164.

Section 11. Other Assurances Required by Provider.

(1) For each participant to whom it provides services, a 1915(c) CHILD waiver provider shall ensure:

(a) The participant's:

1. Right to privacy, dignity, and respect; and
2. Freedom from coercion or restraint;

(b) The participant's freedom of choice as defined by the experience of independence, individual initiative, or autonomy in making life choices in all matters;

(c) That the participant or participant's representative chooses services, providers, and any service settings;

(d) That the participant is provided with a choice of where to live with as much independence as possible and in the most community-integrated environment;

(e) That the service setting options are:

1. Identified and documented in the participant's PCSP; and
2. Based on the participant's needs and preferences; and

(f) That a provider may not move a participant from one approved location to another without approval from the participant or their legal guardian.

(2) A 1915(c) CHILD waiver provider shall not use an aversive technique with a participant.

(3) Any right restriction imposed by a 1915(c) CHILD waiver provider shall:

(a) Be reviewed at least every six (6) months by a human rights committee;

(b) Be subject to approval by a human rights committee; and

(c) Include a plan to restore the participant's rights.

(4) A participant with a history of aggressive behavior or sexual acting out shall have the following actions taken by the care team to address the needs of the participant:

(a) The care team shall assess the participant's history to ensure the safety of the child and other children in supervised residential services, including any sleeping arrangements;

(b) Information about the appropriate safety measures and the safety measures taken shall be included in the child's PCSP; and

(c) A plan of action shall be developed and implemented.

Section 12. Incident Reporting Process.

(1) The incident reporting process shall follow the processes outlined in the "Incident Reporting Instructional Guide for 1915(c) HCBS Waiver Services" available at: https://www.chfs.ky.gov/agencies/dms/dca/Documents/irinstructionalguide.pdf.

(2) The department or its designee shall continually monitor incident trends and patterns and may require additional incident types beyond those listed above as needed.

(3) A provider shall identify individuals and entities, as consistent with KRS 209.030(2) and KRS 620.030, that are required to report critical events and incidents and have a policy that any individual who witnesses or discovers a critical or non-critical incident is responsible to report it.

(4) If an incident occurs that requires reporting, a provider shall:

(a) Notify all pertinent entities including:

1. The case manager or service advisor;
2. Law enforcement; or
3. Protective services;

(b) Ensure that any employee or agent who witnesses or discovers a critical incident shall immediately take steps to:

1. Secure the participant's health, safety, and welfare; and
2. Notify the necessary authorities, including calling law enforcement and reporting any suspected abuse, neglect, or exploitation; and

(c) Comply with existing requirements for reporting of critical and non-critical incidents; and

(d) Complete an investigation report or Risk Mitigation and Investigation Report (RMIR) for all critical incident reports.

(5) The department or its designee shall regularly review critical and non-critical incident summary data generated by MWMA to identify systemic issues and conduct follow-up activities as warranted. Actions taken may include corrective action plans or quality improvements plans as needed to enhance performance and ensure safety.

(6) Following the death of a participant receiving services from a CHILD waiver provider:

(a) The CHILD waiver provider shall immediately notify the:

1. County coroner;
2. Child's parent, guardian, or custodian; and
3. Cabinet staff, including any department and BHDID staff contacted during the provider's regular course of business in providing services under the CHILD waiver;

(b) A verbal report of the death shall be made immediately to the:

1. Commissioner of the Department for Medicaid Services or designee;
2. Commissioner of the Department for Community Based Services or designee; and 3. Commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities or designee;

(c) A written comprehensive report from the director outlining the incident shall be forwarded on the next working day following the verbal report to the Office of the Commissioner of the:

1. Department for Medicaid Services;
2. Department for Community Based Services;
3. Department for Behavioral Health, Developmental and Intellectual Disabilities; and
4. If a child's death occurred as a result of alleged abuse or neglect, the director of the CHILD waiver provider shall make verbal and written reports as required by KRS 620.030(1) and (2).

(7) A child fatality or near fatality shall also participate in the processes established pursuant to KRS 620.055 relating to external

child fatality or near fatalities and the process established pursuant to subsection (8) of this section.

(8)

(a) In addition to the process described in subsection (7) of section, following the death of a participant receiving CHILD waiver services, the CHILD waiver provider shall enter mortality data documentation into the MWMA within fourteen (14) days of the death.

(b) Mortality data documentation shall include:

1. The participant's person-centered service plan at the time of death;

2. Any current assessment forms regarding the participant;

3. The participant's medication administration records from all service sites for the past three (3) months along with a copy of each prescription, if applicable;

4. Service documentation regarding the participant from all service elements for the past thirty (30) days, including case management notes;

5. The results of the participant's most recent physical exam;

6. All incident reports, if any exist, regarding the participant for the previous six (6) months;

7. Any medication error log related to the participant for the previous six (6) months;

8. Names and contact information for all staff members who provided direct care to the participant during the last thirty (30) days of the participant's life;

9. Emergency medical services notes regarding the participant, if available;

10. The police report, if available;

11. A copy of:

a. The participant's advance directive, medical order for scope of treatment, living will, or health care directive, if applicable;

b. Any functional assessment of behavior or positive behavior support plan regarding the participant that is been in place over any part of the previous twelve (12) months; and

c. The cardiopulmonary resuscitation (CPR) and first aid card for any CHILD waiver provider's staff member who was present at the time of the incident that resulted in the participant's death;

12. A record of all medical appointments or emergency room visits by the participant within the previous twelve (12) months; and

13. A record of any crisis training for any staff member present at the time of the incident that resulted in the participant's death.

Section 13. CHILD Waiver Waiting List.

(1) If an individual is determined to meet criteria for allocation to the CHILD waiver as identified in Section 3 but no capacity is available at the time of the review, an individual shall be placed on the CHILD waiver waiting list.

(2) An individual's order of placement on the CHILD waiver waiting list shall be determined by the chronological date of receipt of complete application into the MWMA.

(3) A written notification of placement on the CHILD waiver waiting list shall be mailed to an individual or the individual's guardian and case management provider if identified.

(4)

(a) In determining chronological status, the original date of an individual's complete application information being entered into the MWMA shall be maintained.

(b) The department shall, at a minimum, annually review and update the waiting list information about an individual during the birth month of that individual.

(c) The individual or individual's guardian and case management provider, if identified, shall be contacted annually in writing to verify the accuracy of the information on the CHILD waiver waiting list and the individual's or individual's guardian's continued desire to pursue enrollment in the CHILD waiver.

(d) If a discrepancy in diagnosis or other criteria to qualify for CHILD waiver is noted at the time of the review, the department may request updated supporting documentation to validate that the individual meets CHILD waiver criteria.

(e) The information referenced in paragraph (c) of this subsection shall be received by the department within thirty (30) days from the date of the written request in order to be considered timely.

(f) The criteria for removal from the CHILD waiver waiting list shall be if:

1. After a documented attempt, the department is unable to locate the individual or the individual's guardian;

2. The individual is deceased;

3. A review of documentation reveals that the individual no longer meets criteria for the CHILD waiver as defined in Section 3;

4. Information requested during the waiting list maintenance review is not received by the department or its designee within 20 days of the written request;

5. A notification of potential CHILD waiver funding is made and the individual or the individual's guardian does not request to be maintained on the CHILD waiver waiting list; or

6. Notification of potential CHILD waiver funding is made and the individual or the individual's guardian does not complete the enrollment process with the department or its designee within 120 days.

(5) The removal of an individual from the CHILD waiting list shall not prevent the submission of a new application at a later date.

Section 14. Use of Electronic Signatures. The creation, transmission, storage, or other use of electronic signatures and documents shall comply with:

(1) The requirements established in KRS 369.101 to 369.120; and

(2) All applicable state and federal statutes and regulations.

Section 15. Employee Policies and Requirements Apply to Subcontractors. Any policy or requirement established in this administrative regulation regarding an employee shall apply to a subcontractor.

Section 16. 1915(c) CHILD Waiver Participant Appeal Rights.

(1) An appeal of a department decision regarding a Medicaid beneficiary made pursuant to this administrative regulation shall be in accordance with 907 KAR 1:563.

(2) An appeal of a department decision regarding Medicaid eligibility of an individual made pursuant to this administrative regulation shall be in accordance with 907 KAR 1:560.

Section 17. Federal Approval and Federal Financial Participation. The department's reimbursement for services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

LISA D. LEE, Commissioner
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: October 22, 2025
FILED WITH LRC: January 7, 2026

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation shall be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually shall be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing shall not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott and Krista Quarles
Subject Headings: Children and Minors, Behavioral Health, Medicaid, Health and Medical Services
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the provider and participant provisions for the 1915(c) Community Health for Improved Lives and Development (CHILD) Waiver services.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish provider and participant provisions for the 1915(c) CHILD waiver.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the provider and participant provisions for the 1915(c) CHILD waiver.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing the 1915(c) CHILD waiver services.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, a budget instruction and funding from 2024 HB 6.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Medicaid providers participating in the 1915(c) CHILD waiver. DMS estimates up to 100 participants may access 1915(c) CHILD waiver services at one time.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Providers will be required to bill under the 1915(c) specific fee schedule.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): DMS does not anticipate additional costs in participating as a CHILD waiver provider.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Medicaid recipients who receive a slot for this waiver and providers who will provide services.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The department anticipates no additional costs, beyond those detailed in HB 6, in implementing this administrative regulation.
(b) On a continuing basis: The department anticipates no additional costs, beyond those detailed in HB 6, in implementing this administrative regulation.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement the amendments.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment does not establish or increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 205.520, 194A.030(2), 194A.050(1), 205.520(3).
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Health and Family Services, Department for Medicaid Services is the promulgating agency, the Department for Behavioral Health, Developmental and Intellectual Disabilities is administering the 1915(c) CHILD waiver.
(a) Estimate the following for the first year:
Expenditures: No additional expenditures beyond those allocated to the department pursuant to 2024 House Bill 6.
Revenues: The department does not anticipate revenues as a result of this administrative regulation.
Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect a change to expenditures, revenues, or cost savings in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): DMS does not expect that local entities will be impacted by this regulation.
(a) Estimate the following for the first year:
Expenditures: HB 6 from 2024 funds this program with $14.5 million in total expenditures estimated for the first year.
Revenues: The department does not anticipate additional revenues.
Cost Savings: The department does not anticipate cost savings.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department does not anticipate differences in expenses, revenues, or cost savings in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3): N/A
(a) Estimate the following for the first year:
Expenditures: n/a The department does not anticipate additional expenditures for regulated entities.
Revenues: n/a The department does not anticipate additional revenues for regulated entities.
Cost Savings: The department does not anticipate cost savings for the providers who are billing.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect expenditures, revenues, or cost savings for other entities as a result of this regulation.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: $7.2 million total funding for state fiscal year 2026. The program is anticipated to have a fiscal impact of $15 million total funding for state fiscal year 2027.
(b) Methodology and resources used to determine the fiscal impact: Estimated utilization of the services based on Medicaid Management Information System (MMIS) claims data and programmatic experience were multiplied by anticipated fee schedule rates.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) : The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: The amount of funding involved in this program is not enough to create a major economic impact to an entity identified in questions (2) – (4).

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. Ch. 7 Sec. 1396n

(2) State compliance standards. KRS 194A.030(2) requires the Department for Medicaid Services to "serve as the single state agency in the commonwealth to administer Title XIX of the Federal Social Security Act."
(3) Minimum or uniform standards contained in the federal mandate. A 1915(c) waiver is required to be negotiated and finalized with the federal government.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The waiver does not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The waiver does not impose stricter than federal requirements.

COMPILER'S NOTE: *2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.*

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Long Term Services and Supports
(New Administrative Regulation)

907 KAR 2:725. 1915(c) Kentucky's Community Health for Improved Lives and Development (CHILD) Waiver Reimbursement.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services, has the responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the reimbursement provisions to provide expanded services to individuals who have a primary diagnosis of Autism, Developmental Disability, Intellectual Disability, or Serious Emotional Disturbance.

Section 1. Definitions.
(1) "Assessed or Assessment" means the process that authorizes department or its designee to determine applicant service needs that can be met safely in a community-based setting and determine if the participant is eligible for 1915(c) CHILD Waiver services.
(2) "Autism Spectrum Disorder" (ASD) which is characterized by:
(a) Persistent deficits in social communication and social interaction across multiple contexts;
(b) Restricted, repetitive patterns of behavior, interests, or activities, currently or by history;
(c) Symptoms must be present in the early developmental period (but may not become fully manifest until social demands exceed limited capacities, or may be masked by learned strategies in later life);
(d) Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning; and
(e) These disturbances are not better explained by intellectual disability (intellectual developmental disorder) or global developmental delay. Intellectual disability and autism spectrum disorder frequently co-occur; to make comorbid diagnoses of autism spectrum disorder and intellectual disability, social communication should be below that expected for general developmental level.
(3) "Case Manager" means an individual who meets the personnel and training requirements established in Section 5 of 907 KAR 2:720 and is responsible for facilitating person-centered planning, coordination, and oversight of waiver services.
(4) "Department" means the Kentucky Department for Medicaid Services or its designee.
(5) "Incident" means any occurrence that impacts health, safety, welfare, or lifestyle choice of a participant which can include a:
(a) Minor injury;
(b) Medication error without a serious outcome; or
(c) Behavior or situation that is not a critical incident.
(6) "Person-centered service plan" or "PCSP" means a written individualized plan of 1915(c) CHILD Waiver services developed in accordance with the participant and family's wants, assessed needs, and preferences that may include a transition plan to more intense or less intense level of services.
(7) "Serious Emotional Disability" or "SED" is consistent with KRS 200.503.

Section 2. Coverage.
(1) The department shall reimburse a participating 1915(c) CHILD waiver provider for a covered service provided to a participant.
(2) In order to be reimbursable by the department, a service shall be:
(a) Provided in accordance with the terms and conditions established in 907 KAR 2:720; and
(b) Prior authorized by the department.

Section 3. General Reimbursement Requirements.
(1) For the department to reimburse for a service or item, the requirements of 907 KAR 2:720 shall be met.
(2) The department shall reimburse a participating provider for a covered service as established pursuant to the 1915(c) Fee Schedule as available at: https://www.chfs.ky.gov/agencies/dms/Pages/feesrates.aspx.

Section 4. Exceptional Supports Process.
(1) A service listed in 907 KAR 2:720 that includes benefit limitations, regardless of delivery method, shall qualify for review as an exception to the benefit limitations:
(a) Based on the needs of the participant for whom the exception is requested;
(b) For a limited period of time;
(c) If the service meets the requirements for an exception in accordance with the Kentucky 1915(c) CHILD Exceptional Supports Protocol found on the 1915(c) CHILD waiver website located at: https://www.chfs.ky.gov/agencies/dms/dca/Pages/default.aspx; and
(d) If approved by the department or designee to be an exception.
(2) An exception granted pursuant to this section shall be for the sole purpose of ensuring the health, safety, and welfare of the 1915(c) CHILD Waiver participant.
(3) Each exceptional supports request shall be agreed upon by a consensus vote of the person-centered team by a person-centered team meeting.
(4) Within one (1) day of the person-centered team meeting in which an exceptional supports request is approved, the case manager shall submit the exception request through the Medicaid Waiver Management Application (MWMA), including:
(a) The name and identifying information of the participant;
(b) A description of the exceptional support being requested;
(c) Specific challenges presented by the participant and interventions provided that have resulted in the request, including dates, times, and locations of occurrences;
(d) Summary notes of the person-centered team meeting held to determine if the request for the requested exception was appropriate, including signatures of the team members and date, time, and location of the meeting;
(e) Documentation of any intervention attempted to stabilize the challenges and the resulting outcomes for any repeat exception requests; and
(f) Submission of a modified plan with the exceptional support request.
(5) The department or designee shall:

(a) Review the exception request submission within three (3) business days; and

(b) Approve, deny the request, or request additional information.

(6) An approved exception request shall be prior authorized for a period of up to six (6) months or until the end of the participant's eligibility year, whichever is shorter.

(7) The prior authorization shall follow the participant if a transition to another provider occurs through an amendment to the prior authorization.

(8) A new exception request that will continue an existing exception shall be submitted no later than fifteen (15) days prior to the end of a prior authorization period.

Section 5. Auditing and Reporting. A CHILD provider shall maintain fiscal records and incident reports in accordance with the requirements established in 907 KAR 2:720.

Section 6. Appeal Rights. A CHILD provider may appeal a department decision regarding the application of this administrative regulation. An appeal shall be in accordance with 907 KAR 1:563.

Section 7. Federal Approval and Federal Financial Participation. The department's reimbursement of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the reimbursement; and

(2) Centers for Medicare and Medicaid Services' approval for the reimbursement.

LISA D. LEE, Commissioner
STEVEN J. STACK, MD, MBA, Secretary
APPROVED BY AGENCY: October 15, 2025
FILED WITH LRC: January 7, 2026

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation shall be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually shall be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing shall not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jonathan Scott and Krista Quarles
Subject Headings: Children and Minors, Behavioral Health, Medicaid, Health and Medical Services
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the provider and participant provisions for the 1915(c) Community Health for Improved Lives and Development (CHILD) Waiver services.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the CHILD waiver reimbursement.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the provider and participant provisions for the 1915(c) CHILD waiver.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing the 1915(c) CHILD Waiver services.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.
(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, funding and a budget instruction from 2024 HB 6.
(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Medicaid providers participating in the 1915(c) CHILD waiver. DMS estimates up to 100 participants may access 1915(c) CHILD waiver services at one time.
(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Providers will be required to bill under the 1915(c) specific fee schedule.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): DMS does not anticipate additional costs with participating as a CHILD waiver provider.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Medicaid recipients who receive a slot for this waiver and providers who will provide services.
(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The department anticipates no additional costs, beyond those detailed in HB 6, in implementing this administrative regulation.
(b) On a continuing basis: The department anticipates no additional costs, in implementing this administrative regulation.
(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.
(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement the amendments.
(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment does not establish or increase any fees.
(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 205.520, 194A.030(2), 194A.050(1), 205.520(3).
(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department for Medicaid Services is the promulgating and administering agency.
(a) Estimate the following for the first year:
Expenditures: No additional expenditures beyond those allocated to the Department pursuant to 2024 House Bill 6.
Revenues: The Department does not anticipate revenues as a result of this administrative regulation.

Cost Savings: The Department does not anticipate cost savings as a result of this administrative regulation.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect a change to expenditures, revenues, or cost savings in subsequent years.
(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): DMS does not expect that local entities will be impacted by this regulation.
(a) Estimate the following for the first year:
Expenditures: HB 6 from 2024 funds this program with $14.5 million in total expenditures estimated for the first year.
Revenues: The department does not anticipate additional revenues.
Cost Savings: The department does not anticipate cost savings.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Department does not anticipate differences in expenses, revenues, or cost savings in subsequent years.
(4) Identify additional regulated entities not listed in questions (2) or (3): N/A
(a) Estimate the following for the first year:
Expenditures: n/a The department does not anticipate additional expenditures for regulated entities.
Revenues: n/a The department does not anticipate additional revenues for regulated entities.
Cost Savings: The department does not anticipate cost savings for the providers who are billing.
(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect expenditures, revenues, or cost savings for other entities as a result of this regulation.
(5) Provide a narrative to explain the:
(a) Fiscal impact of this administrative regulation: $7.2 million total funding for state fiscal year 2026. The program is anticipated to have a fiscal impact of $15 million total funding for state fiscal year 2027.
(b) Methodology and resources used to determine the fiscal impact: Estimated utilization of the services based on MMIS claims data and programmatic experience were multiplied by anticipated fee schedule rates.
(6) Explain:
(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate) : The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.
(b) The methodology and resources used to reach this conclusion: the amount of funding involved in this program is not enough to create a major economic impact to an entity identified in questions (2) – (4).

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42 U.S.C. Ch. 7 Sec. 1396n
(2) State compliance standards. KRS 194A.030(2) requires the Department for Medicaid Services to "serve as the single state agency in the commonwealth to administer Title XIX of the Federal Social Security Act."
(3) Minimum or uniform standards contained in the federal mandate. A 1915(c) waiver must be negotiated and finalized with the federal government.
(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The waiver will not impose stricter than federal requirements.
(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The waiver will not impose stricter than federal requirements.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of January 12, 2026

Call to Order and Roll Call
The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 12, 2026, at 1:00 PM in Room 149 of the Capitol Annex. Representative Lewis, Chair, called the meeting to order, and roll call was taken.

Present were:

Members: Representative Derek Lewis, Chair; Representatives Randy Bridges, Deanna Gordon, and Mary Lou Marzian; and Senator Mike Wilson.

LRC Staff: Karen Howard, Emily Harkenrider, Carrie Nichols, Stacy Auterson, Laura Begin, Ange Darnell, Anna Latek, and Callie Lewis.

Guests: Travis Powell, Executive Vice President/General Counsel, Council on Postsecondary Education (CPE); Taylor Brown, General Counsel, State Board of Elections (SBE); Elizabeth Adams, Senior Administrative Specialist, Office of the Attorney General (OAG); Tiffany Durham, Branch Manager, OAG; Steve Humphress, Executive Director, OAG; Lisa Bond, MA, Chair, Board of Examiners of Psychology (KBEP); Jay Prather, Board Member, KBEP; Michael Kennedy, Division Director, Department for Environmental Protection (DEP); and Todd Allen, General Counsel, Board of Education (KBE).

Approval of December 8, 2025 Minutes
A motion was made by Representative Gordon and seconded by Representative Marzian to approve the minutes of the December 8, 2025, meeting. Minutes were approved by voice vote without objection.

Administrative Regulations Reviewed by this Subcommittee:

COUNCIL ON POSTSECONDARY EDUCATION: Public Educational Institutions
013 KAR 002:111. Repeal of 013 KAR 002:110.

STATE BOARD OF ELECTIONS: Election Voting Systems
031 KAR 002:010. Preparation of ballots and voting systems prior to election day.
A motion was made and seconded to approve the following amendment: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 002:020. Accuracy test and setting of voting systems prior to election day.
A motion was made and seconded to approve the following amendment: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 and 7 through 9 to include a link to access incorporated material and comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 002:030. E-poll book product certification.
A motion was made and seconded to approve the following amendment: to amend the RELATES TO paragraph and Sections 1 and 2 to include a link to access incorporated material and comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

Statewide Voter Registration
031 KAR 003:010. Current address of Kentucky registered voters and distribution of voter registration lists.
A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to change references from "statewide voter registration database" to "statewide electronic voter registration system"; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendments were approved.

031 KAR 003:031. Voting precinct and address of overseas voter whose last place of residence in the Commonwealth is no longer a recognized residential address.

031 KAR 003:041. Electronic Voter Registration System.

Forms and Procedures
031 KAR 004:020. Election costs and county clerk reimbursement and form.
A motion was made and seconded to approve the following amendment: to amend Sections 1 and 2 to include a link to access incorporated material and comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 004:031. Reporting.
A motion was made and seconded to approve the following amendment: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 004:050. Removal procedure for precinct election officers.

031 KAR 004:071. Recanvass procedures.

031 KAR 004:080. Preclearance counties.

031 KAR 004:090. Mock election for school children.

031 KAR 004:100. Evaluation of precinct election officers.
A motion was made and seconded to approve the following amendment: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to include a link to access incorporated material and comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 004:120. Additional and emergency precinct officers.
A motion was made and seconded to approve the following amendment: to amend Section 5 to include a link to access incorporated material. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 004:131. Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically.

031 KAR 004:141. Submission of the federal postcard application via electronic mail.

031 KAR 004:150. Tracking registration of voters identifying with political organizations and groups, and voters of independent status.
A motion was made and seconded to approve the following amendment: to amend the RELATES TO paragraph and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 004:160. Elections Emergency Contingency Plan.
A motion was made and seconded to approve the following

amendment: to amend the RELATES TO paragraph and Sections 2 and 10 to include a link to access incorporated material and comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 004:170. Exceptions to prohibition on electioneering.

031 KAR 004:196. Consolidation of precincts and precinct election officers.

031 KAR 004:201. Chain of custody for records during an election contest.

031 KAR 004:220. Recount procedures.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 004:230. Post-election audit procedures.

Voting

031 KAR 005:011. Use of the federal write-in absentee ballot.

031 KAR 005:026. Ballot standards and election security.

031 KAR 005:040. Questions regarding voter eligibility.

Help America Vote Act 2002

031 KAR 006:010. State-based administrative complaint procedure.

A motion was made and seconded to approve the following amendment: to amend the RELATES TO paragraph and Sections 5 and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 006:020. Provisional voting.

A motion was made and seconded to approve the following amendment: to amend Section 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

031 KAR 006:030. Uniform definition of a vote.

031 KAR 006:040. Elections and Voting Equipment Security Plan.

A motion was made and seconded to approve the following amendment: to amend the RELATES TO paragraph and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

OFFICE OF THE ATTORNEY GENERAL: Office of Regulatory Relief

040 KAR 012:100. Funeral planning declaration form.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

040 KAR 012:110. Cemetery companies and preneed cemetery merchandise sellers.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

040 KAR 012:120. Preneed funeral and burial contract sellers.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

040 KAR 012:130. Crematory authorities and inspections.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

BOARDS AND COMMISSIONS: Board of Examiners of Psychology

201 KAR 026:118. Psychology interjurisdictional compact.

201 KAR 026:155. Licensed psychologist: application procedure and temporary license.

A motion was made and seconded to approve the following amendment: to amend Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

201 KAR 026:160. Fee schedule.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

In response to Chair Lewis, Lisa Bond, Chair, KBEP, stated this is the first fee increase in over 20 years, and the board is attempting to follow inflation. KBEP is operating at a deficit and dipping into reserve funds, which need to be replenished. The proposed fees are commensurate with Ohio and West Virginia.

In response to Representative Marzian, Ms. Bond stated the fees do not create excess funds, which the state could sweep, but are intended to fund operations without using reserves. Jay Prather, Board Member, KBEP, explained the board is hiring private counsel because the state terminated the board's contract for legal services, which doubled legal costs. The new fees are the result of KBEP's best estimates of expected expenditures, which it hopes will avoid another increase during the three-year renewal cycle.

Chair Lewis stated he will talk with co-chairs of the committee of jurisdiction and advised the board to bring its budget to that committee and be ready to answer questions.

201 KAR 026:171. Requirements for clinical supervision.

A motion was made and seconded to approve the following amendment: to amend Sections 1, 4, 5, 8, 11, 12, 13, and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

201 KAR 026:175. Continuing education.

201 KAR 026:190. Requirements for supervised professional experience.

201 KAR 026:280. Licensed psychological associate: application procedures and temporary license.

A motion was made and seconded to approve the following amendment: to amend Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division for Air Quality

401 KAR 060:005. 40 C.F.R. Part 60 standards of performance for new stationary sources.

401 KAR 063:002. 40 C.F.R. Part 63 national emission standards for hazardous air pollutants.

EDUCATION AND LABOR CABINET: Board of Education: Office of Chief State School Officer

701 KAR 005:150. Nontraditional instruction program.

A motion was made and seconded to approve the following amendment: to amend Sections 1 through 3, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

701 KAR 005:170. Waiver Requests.

A motion was made and seconded to approve the following amendment: to amend Sections 3, 4, 6, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

Office of Instruction

704 KAR 003:406. Superintendent training program and assessment process.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement from the agency, the amendment was approved.

Academic Standards

704 KAR 008:020. Required academic standards for reading and writing.

Other Business:

Chair Lewis recognized and congratulated Ange Bertholf Darnell as the new Regulations Compiler.

The following administrative regulations were DEFERRED OR REMOVED from the January 12, 2026, subcommittee agenda:

AGRICULTURAL EXPERIMENT STATION: Feed

012 KAR 002:006. Definitions for 12 KAR Chapter 2.

012 KAR 002:011. Label format.

012 KAR 002:018. Guaranteed analysis.

012 KAR 002:026. Ingredients.

012 KAR 002:041. Drug and feed additives.

012 KAR 002:046. Poisonous or deleterious substances.

012 KAR 002:051. Manufacturing conditions.

Pet Food

012 KAR 003:012. Label format and labeling.

012 KAR 003:022. Expression of guarantees.

012 KAR 003:027. Ingredients.

012 KAR 003:028. Descriptive terms.

012 KAR 003:032. Feeding directions.

012 KAR 003:037. Drugs and pet food additives.

012 KAR 003:039. Nutritional adequacy.

012 KAR 003:042. Statements of calorie content.

COMMISSION ON HUMAN RIGHTS: Human Rights

104 KAR 001:010. Posting, distribution and availability of notices and pamphlets.

BOARDS AND COMMISSIONS: Board of Licensure for Long-Term Care Administrators

201 KAR 006:030. Temporary permits.

201 KAR 006:071. Continuing education requirements.

Board of Veterinary Examiners

201 KAR 016:730. Approved allied animal professional (AAHP) programs; education requirements.

201 KAR 016:731. Examination requirements for AAHP providers.

201 KAR 016:732. Application requirements for AAHP licenses – reinstatement.

201 KAR 016:735. Renewal requirements for AAHP licenses – renewal notice – expiration.

201 KAR 016:737. Responsibilities for AAHP providers; limitations on practice.

201 KAR 016:762. Application requirements for veterinary facility registration; veterinarian managers; registered responsible parties.

201 KAR 016:767. Registered veterinary facilities – Duties of registered responsible parties and veterinarian managers.

201 KAR 016:772. Application requirements for AAHP facility registration; AAHP managers; Registered responsible parties.

201 KAR 016:775. AAHP facilities – Renewal notice – Requirements for renewal and reinstatement.

201 KAR 016:777. Registered AAHP facilities – Duties of registered responsible parties and AAHP managers.

Board of Licensure for Professional Engineers and Land Surveyors

201 KAR 018:072. Experience.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Juvenile Justice: Child Welfare

505 KAR 001:140E. Department of Juvenile Justice Policies and Procedures Manual: detention services.

505 KAR 001:140. Department of Juvenile Justice Policies and Procedures Manual: detention services.

505 KAR 001:410E. Restrictive housing and protective custody.

505 KAR 001:410. Restrictive housing and protective custody.

EDUCATION AND LABOR CABINET: Board of Education: Pupil Transportation

702 KAR 005:130. Non-school bus passenger vehicles.

Office of Instruction

704 KAR 003:410. Preschool education program for four (4) year old children.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control

804 KAR 013:010E. Tobacco enforcement and administration.

804 KAR 013:020E. Tobacco, nicotine, or vapor product license application forms.

804 KAR 013:030E. Causes for denial of tobacco, nicotine, or vapor product license.

804 KAR 013:040E. Notice of intention to apply for tobacco, nicotine, or vapor product transitional license.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Controlled Substances

902 KAR 055:015. Schedules of controlled substances.

Department for Medicaid Services: Payment & Services

907 KAR 003:320. Beneficiary Advisory Council and modifications to the Advisory Council for Medical Assistance to establish the Kentucky Medicaid Advisory Committee.

Outpatient Pharmacy Program

907 KAR 023:010. Outpatient Pharmacy Program.

Department for Community Based Services: Child Welfare

922 KAR 001:565. Service array for a relative or fictive kin caregiver.

The subcommittee adjourned at 1:20 PM. The next meeting of this subcommittee is tentatively scheduled for February 9, 2026, at 1 PM in Room 149 of the Annex.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(11), the following reports were forwarded by the appropriate jurisdictional committees to the Regulations Compiler and the Legislative Research Commission and are hereby printed in the *Administrative Register of Kentucky*.

SENATE STANDING COMMITTEE ON HEALTH SERVICES
Meeting of January 21, 2026

The following administrative regulations were available for consideration and placed on the agenda of the Senate Standing Committee on Health Services for its meeting of January 21, 2026, having been referred to the Committee on December 3, 2025 and January 7, 2026, pursuant to KRS 13A.290(6):

Referred on December 3, 2025

201 KAR 009:270 Proposed
201 KAR 017:120 Emergency
201 KAR 029:010 Proposed
201 KAR 029:015 Proposed
201 KAR 029:020 Proposed
201 KAR 029:030 Proposed
201 KAR 029:040 Proposed
201 KAR 029:050 Proposed
201 KAR 029:060 Proposed
900 KAR 006:075 Proposed
902 KAR 055:015 Emergency
907 KAR 003:320 Emergency

Referred on January 7, 2026

201 KAR 008:563 Proposed
201 KAR 017:120 Proposed
201 KAR 022:045 Proposed
201 KAR 026:118 Emergency
202 KAR 007:555 Proposed
202 KAR 007:801 Proposed
902 KAR 100:130 Proposed
907 KAR 001:023 Proposed
907 KAR 001:065 Proposed
907 KAR 003:062 Proposed
907 KAR 008:020 Proposed
907 KAR 008:040 Proposed
907 KAR 010:016 Proposed
907 KAR 015:022 Proposed

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

900 KAR 005:020 Proposed

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

Agency Amendment
Cabinet for Health and Family Services
Office of Inspector General

900 KAR 5:020. State Health Plan for facilities and services (Amended at ARRS 11/10/25).

Page 1
Section 2(1)
Line 19
After, "Update to the State Health Plan", insert "January 2026"
Delete "November 2025"

Material Incorporated by Reference

The amendments in this Agency Amendment are based upon the clean version of the State Health Plan as amended at ARRS (11/10/25).

Title page
Header
Insert "January 2026"
Delete "November 2025"

Title
After "State Health Plan", insert "January 2026"
Delete "November 2025"

Page 47
B. Megavoltage Radiation Equipment
Review Criteria.
4.
Delete "4." in its entirety.

CUMULATIVE SUPPLEMENT

Unless otherwise noted, information contained in these indexes relates only to administrative regulations printed in this, the 52nd year of the *Administrative Register of Kentucky*, from July 2025 through June 2026.

Locator Index - Effective Dates **H – 2**

Lists all administrative regulations published or continuing through the KRS Chapter 13A review process during this Register year. It also lists the page number on which each regulation is published, the effective date of the regulation after it has completed the review process, and other actions that may affect the regulation.

NOTE: Regulations originally promulgated and published in previous years' issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the last *Register* year ended will have an earlier *Register* year or "Ky.R." citation. To view versions of regulations published in prior *Registers*, please visit our online *Administrative Registers of Kentucky*.

KRS Index **H – 11**

A cross-reference listing of the statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each regulation submitted for publication during this *Register* year.

Certifications Index **H – 23**

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year.

Technical Amendment Index **H – 35**

A list of administrative regulations that have had technical, non-substantive amendments made during this *Register* year. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 13A.312(2), or 13A.320(1)(e). Because these changes were not substantive in nature, administrative regulations appearing in this index are not published in the *Administrative Register of Kentucky*; however, they are usually available on the Legislative Research Commission's website.

Subject Index **H – 36**

A general index of administrative regulations published during this *Register* year, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	Ky.R. Page No.	Effective Date

Administrative regulations published in previous Register years may appear in this index if a regulation had not completed the KRS Chapter 13A review process by the beginning of this *Register* year. The "*Register* number" or "Ky.R. number" is listed the first time a regulation is published during that Register year. Once the regulation has been published in another *Register* year, the new Ky.R. number will appear next to the page number entry. To view versions of regulations published in prior *Registers*, please visit the online *Administrative Registers of Kentucky*.

SYMBOL KEY:

* Statement of Consideration not filed by deadline
** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
*** Withdrawn before being printed in Register
IJC Interim Joint Committee
(r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

EMERGENCY ADMINISTRATIVE REGULATIONS

NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. This index reflects the KRS Chapter 13A-established expiration dates. Other statutes or legislation may affect a regulation's actual end date.

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201 KAR 028:240E	52 Ky.R.	5	6-13-2025
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907 KAR 001:835E	51 Ky.R.	1365	12-23-2024
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SYMBOL KEY:

* Statement of Consideration not filed by deadline

** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))

*** Withdrawn before being printed in Register

IJC Interim Joint Committee

(r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

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327.050	201 KAR 022:020
327.060	201 KAR 022:020
327.070	201 KAR 022:045
327.075	201 KAR 022:020
327.080	201 KAR 022:020
327.310	201 KAR 022:020
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334.040	907 KAR 001:039
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335.070	201 KAR 023:075
335.130	201 KAR 023:075
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335.500	907 KAR 003:210
335.560	201 KAR 036:100
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338.015	803 KAR 002:181
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338.051	803 KAR 002:404
338.061	803 KAR 002:404
338.071	803 KAR 002:250
338.091	803 KAR 002:260
338.121	803 KAR 002:181
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338.141	803 KAR 002:250
338.161	803 KAR 002:181
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344.010	104 KAR 001:010
344.030	101 KAR 002:102
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344.130	104 KAR 001:010
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367.807	040 KAR 012:410
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367.958	040 KAR 012:110
367.972	040 KAR 012:110
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367.93103	040 KAR 012:100
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367.93105	040 KAR 012:100
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367.93107	040 KAR 012:100
367.93109	040 KAR 012:100
367.93111	040 KAR 012:100
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391.010	040 KAR 012:130
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424.260	702 KAR 003:130
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438.310	804 KAR 013:020
438.3063	804 KAR 013:020
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438.3065	804 KAR 013:020
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439.600	501 KAR 006:510
439.610	501 KAR 006:510
439.3110	501 KAR 006:510
439.3405	501 KAR 006:510
440.010	501 KAR 006:510
441.146	501 KAR 006:510
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500.080	907 KAR 002:720
527.100	922 KAR 001:565
527.110	922 KAR 001:565
532.135	501 KAR 016:310
532.140	501 KAR 016:310
532.200-532.262	501 KAR 006:510
600.020	922 KAR 001:565
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605.120	922 KAR 001:565
610.110	922 KAR 001:565
620.020	922 KAR 001:565
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620.030	907 KAR 003:210
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21 C.F.R.	201 KAR 002:165
	902 KAR 055:015
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24 C.F.R.	907 KAR 016:005
26 C.F.R.	045 KAR 001:090
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29 C.F.R.	101 KAR 002:102
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33 C.F.R.	301 KAR 006:001
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34 C.F.R.	907 KAR 003:100
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40 C.F.R.	401 KAR 060:005
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42 C.F.R.	907 KAR 001:039
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45 C.F.R.	907 KAR 003:210
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49 C.F.R.	702 KAR 005:130
50 C.F.R.	301 KAR 002:075
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5 U.S.C.	803 KAR 002:260
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15 U.S.C.	012 KAR 003:012
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16 U.S.C.	301 KAR 002:075
	301 KAR 003:140
20 U.S.C.	907 KAR 016:020
	702 KAR 007:065
	703 KAR 005:280
	907 KAR 015:022
	707 KAR 001:002
	707 KAR 001:350
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21 U.S.C.	902 KAR 055:015
	012 KAR 002:041
	012 KAR 003:037
	907 KAR 015:022
26 U.S.C.	011 KAR 012:070
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	105 KAR 001:150
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28 U.S.C.	803 KAR 002:260
29 U.S.C.	101 KAR 002:034
	101 KAR 002:102
	101 KAR 003:015
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	907 KAR 016:005
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	907 KAR 015:022
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CERTIFICATION LETTER SUMMARIES

The certification process is established in KRS 13A.3104. If the certification letter states the regulation shall be amended, the administrative body shall file an amendment to the regulation within 18 months of the date the certification letter was filed. If the certification letter states that the regulation shall remain in effect without amendment, the last effective date of the regulation is changed to the date the regulations compiler received the letter.

* KRS 13A.010(6) - “Effective” or “eff.” means that an administrative regulation has completed the legislative review process established by KRS 13A.290, 13A.330, and 13A.331.

Regulation Number	Letter Filed Date	Action
009 KAR 001:015	09-18-2025	Remain in Effect without Amendment
009 KAR 001:030	09-18-2025	Remain in Effect without Amendment
011 KAR 003:001	07-28-2025	Remain in Effect without Amendment
011 KAR 003:005	07-28-2025	Remain in Effect without Amendment
011 KAR 003:045	07-28-2025	Remain in Effect without Amendment
011 KAR 003:055	07-28-2025	Remain in Effect without Amendment
011 KAR 003:100	07-28-2025	Remain in Effect without Amendment
012 KAR 002:006	09-11-2025	Remain in Effect without Amendment
012 KAR 002:006	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 002:011	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 002:016	09-11-2025	Remain in Effect without Amendment
012 KAR 002:017	09-11-2025	Remain in Effect without Amendment
012 KAR 002:018	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 002:021	09-11-2025	Remain in Effect without Amendment
012 KAR 002:026	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 002:031	09-11-2025	Remain in Effect without Amendment
012 KAR 002:036	09-11-2025	Remain in Effect without Amendment
012 KAR 002:041	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 002:046	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 002:051	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 002:056	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 002:056	09-11-2025	Remain in Effect without Amendment
012 KAR 002:061	09-11-2025	Remain in Effect without Amendment
012 KAR 002:066	09-11-2025	Remain in Effect without Amendment
012 KAR 003:007	09-11-2025	Remain in Effect without Amendment
012 KAR 003:012	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 003:017	09-11-2025	Remain in Effect without Amendment
012 KAR 003:022	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 003:027	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 003:028	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 003:032	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 003:037	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 003:039	09-11-2025	To be amended; filing deadline 3-11-2027
012 KAR 003:042	09-11-2025	To be amended; filing deadline 3-11-2027
013 KAR 002:020	10-14-2025	Remain in Effect without Amendment
016 KAR 002:010	08-28-2025	Remain in Effect without Amendment
016 KAR 005:030	08-28-2025	Remain in Effect without Amendment
031 KAR 004:100	12-31-2025	To be amended; filing deadline 10-14-2025
032 KAR 001:090	01-20-2026	Remain in Effect without Amendment
032 KAR 002:070	01-20-2026	Remain in Effect without Amendment
032 KAR 002:080	01-20-2026	Remain in Effect without Amendment
032 KAR 002:110	01-20-2026	Remain in Effect without Amendment
032 KAR 002:170	01-20-2026	Remain in Effect without Amendment
032 KAR 002:190	01-20-2026	Remain in Effect without Amendment
101 KAR 002:020	07-14-2025	Remain in Effect without Amendment
101 KAR 002:076	07-14-2025	Remain in Effect without Amendment
101 KAR 003:050	07-14-2025	Remain in Effect without Amendment
102 KAR 001:010	12-17-2025	Remain in Effect without Amendment
102 KAR 001:030	12-17-2025	Remain in Effect without Amendment
102 KAR 001:032	12-17-2025	Remain in Effect without Amendment
102 KAR 001:038	12-17-2025	Remain in Effect without Amendment
102 KAR 001:039	12-17-2025	Remain in Effect without Amendment
102 KAR 001:045	12-17-2025	Remain in Effect without Amendment
102 KAR 001:050	12-17-2025	Remain in Effect without Amendment
102 KAR 001:057	12-17-2025	Remain in Effect without Amendment
102 KAR 001:060	12-17-2025	Remain in Effect without Amendment
102 KAR 001:070	12-17-2025	Remain in Effect without Amendment
102 KAR 001:105	12-17-2025	Remain in Effect without Amendment
102 KAR 001:110	12-17-2025	Remain in Effect without Amendment
102 KAR 001:130	12-17-2025	Remain in Effect without Amendment

102 KAR 001:140	12-17-2025	Remain in Effect without Amendment
102 KAR 001:145	12-17-2025	Remain in Effect without Amendment
102 KAR 001:150	12-17-2025	Remain in Effect without Amendment
102 KAR 001:155	12-17-2025	Remain in Effect without Amendment
102 KAR 001:163	12-17-2025	Remain in Effect without Amendment
102 KAR 001:165	12-17-2025	Remain in Effect without Amendment
102 KAR 001:168	12-17-2025	Remain in Effect without Amendment
102 KAR 001:170	12-17-2025	Remain in Effect without Amendment
102 KAR 001:178	12-17-2025	Remain in Effect without Amendment
102 KAR 001:180	12-17-2025	Remain in Effect without Amendment
102 KAR 001:185	12-17-2025	Remain in Effect without Amendment
102 KAR 001:210	12-17-2025	Remain in Effect without Amendment
102 KAR 001:220	12-17-2025	Remain in Effect without Amendment
102 KAR 001:225	12-17-2025	Remain in Effect without Amendment
102 KAR 001:230	12-17-2025	Remain in Effect without Amendment
102 KAR 001:240	12-17-2025	Remain in Effect without Amendment
102 KAR 001:245	12-17-2025	Remain in Effect without Amendment
102 KAR 001:250	12-17-2025	Remain in Effect without Amendment
102 KAR 001:270	12-17-2025	Remain in Effect without Amendment
102 KAR 001:280	12-17-2025	Remain in Effect without Amendment
102 KAR 001:290	12-17-2025	Remain in Effect without Amendment
102 KAR 001:300	12-17-2025	Remain in Effect without Amendment
102 KAR 001:310	12-17-2025	Remain in Effect without Amendment
102 KAR 001:330	12-17-2025	Remain in Effect without Amendment
102 KAR 002:010	12-17-2025	Remain in Effect without Amendment
102 KAR 002:025	12-17-2025	Remain in Effect without Amendment
103 KAR 001:040	01-07-2026	Remain in Effect without Amendment
103 KAR 001:130	01-07-2026	Remain in Effect without Amendment
103 KAR 001:130	01-07-2026	To be amended; filing deadline 7-7-2027
103 KAR 015:110	11-14-2025	To be amended; filing deadline 5-14-2027
103 KAR 015:120	11-14-2025	To be amended; filing deadline 5-14-2027
103 KAR 015:140	11-14-2025	To be amended; filing deadline 5-14-2027
103 KAR 015:180	12-15-2025	To be amended; filing deadline 6-15-2027
103 KAR 015:195	12-15-2025	To be amended; filing deadline 6-15-2027
103 KAR 016:060	01-07-2026	Remain in Effect without Amendment
103 KAR 016:090	01-07-2026	Remain in Effect without Amendment
103 KAR 016:230	01-07-2026	Remain in Effect without Amendment
103 KAR 016:290	01-07-2026	Remain in Effect without Amendment
103 KAR 016:330	01-07-2026	To be amended; filing deadline 7-7-2027
103 KAR 016:340	01-07-2026	Remain in Effect without Amendment
103 KAR 017:010	12-15-2025	Remain in Effect without Amendment
103 KAR 017:020	12-15-2025	Remain in Effect without Amendment
103 KAR 017:060	12-15-2025	Remain in Effect without Amendment
103 KAR 017:100	11-14-2025	Remain in Effect without Amendment
103 KAR 017:130	11-14-2025	To be amended; filing deadline 5-14-2027
103 KAR 017:140	11-14-2025	Remain in Effect without Amendment
103 KAR 018:010	10-01-2025	Remain in Effect without Amendment
103 KAR 018:050	12-15-2025	Remain in Effect without Amendment
103 KAR 018:060	10-01-2025	Remain in Effect without Amendment
103 KAR 018:110	12-15-2025	Remain in Effect without Amendment
103 KAR 018:120	12-15-2025	Remain in Effect without Amendment
103 KAR 018:172	10-01-2025	Remain in Effect without Amendment
103 KAR 018:180	11-14-2025	To be amended; filing deadline 5-14-2027
103 KAR 050:050	11-14-2025	Remain in Effect without Amendment
105 KAR 001:145	01-13-2026	Remain in Effect without Amendment
105 KAR 001:147	01-13-2026	Remain in Effect without Amendment
105 KAR 001:320	10-03-2025	Remain in Effect without Amendment
105 KAR 001:345	10-03-2025	Remain in Effect without Amendment
201 KAR 002:215	12-05-2025	Remain in Effect without Amendment
201 KAR 006:050	06-25-2025	Remain in Effect without Amendment
201 KAR 009:021	05-27-2025	Remain in Effect without Amendment
201 KAR 009:031	05-27-2025	Remain in Effect without Amendment
201 KAR 009:041	09-10-2025	Remain in Effect without Amendment
201 KAR 009:051	05-27-2025	Remain in Effect without Amendment
201 KAR 009:061	05-27-2025	Remain in Effect without Amendment
201 KAR 009:071	05-27-2025	Remain in Effect without Amendment
201 KAR 009:082	10-24-2025	Remain in Effect without Amendment
201 KAR 009:084	09-10-2025	Remain in Effect without Amendment
201 KAR 009:350	10-24-2025	Remain in Effect without Amendment

201 KAR 009:400	09-10-2025	Remain in Effect without Amendment
201 KAR 012:010	08-28-2025	To be amended; filing deadline 3-2-2027
201 KAR 014:010	01-21-2026	Remain in Effect without Amendment
201 KAR 020:062	01-08-2026	Remain in Effect without Amendment
201 KAR 020:340	01-08-2026	Remain in Effect without Amendment
201 KAR 020:350	01-08-2026	Remain in Effect without Amendment
201 KAR 020:360	01-08-2026	Remain in Effect without Amendment
201 KAR 020:362	01-08-2026	Remain in Effect without Amendment
201 KAR 028:060	10-13-2025	Remain in Effect without Amendment
201 KAR 028:170	10-13-2025	Remain in Effect without Amendment
201 KAR 034:060	06-25-2025	Remain in Effect without Amendment
301 KAR 001:132	08-28-2025	To be amended; filing deadline 2-28-2027
301 KAR 002:176	08-29-2025	To be amended; filing deadline 2-28-2027
301 KAR 006:015	08-28-2025	To be amended; filing deadline 2-28-2027
400 KAR 001:001	10-01-2025	Remain in Effect without Amendment
400 KAR 001:040	10-01-2025	Remain in Effect without Amendment
400 KAR 001:060	06-11-2025	Remain in Effect without Amendment
400 KAR 001:090	10-01-2025	Remain in Effect without Amendment
400 KAR 001:100	10-01-2025	Remain in Effect without Amendment
400 KAR 001:120	07-22-2025	Remain in Effect without Amendment
400 KAR 004:100	10-28-2025	Remain in Effect without Amendment
401 KAR 004:010	07-22-2025	Remain in Effect without Amendment
401 KAR 004:020	07-22-2025	Remain in Effect without Amendment
401 KAR 004:030	07-22-2025	To be amended; filing deadline 1-22-2027
401 KAR 004:040	07-22-2025	Remain in Effect without Amendment
401 KAR 004:050	07-22-2025	To be amended; filing deadline 1-22-2027
401 KAR 004:060	07-22-2025	To be amended; filing deadline 1-22-2027
401 KAR 004:070	07-22-2025	Remain in Effect without Amendment
401 KAR 004:070	06-04-2025	Remain in Effect without Amendment
401 KAR 004:200	07-22-2025	Remain in Effect without Amendment
401 KAR 004:220	07-22-2025	Remain in Effect without Amendment
401 KAR 004:300	07-22-2025	Remain in Effect without Amendment
401 KAR 005:002	10-28-2025	To be amended; filing deadline 4-28-2027
401 KAR 005:005	10-28-2025	To be amended; filing deadline 5-28-2027
401 KAR 005:005	11-28-2025	To be amended; filing deadline 4-28-2027
401 KAR 005:006	10-28-2025	To be amended; filing deadline 4-28-2027
401 KAR 005:015	10-28-2025	Remain in Effect without Amendment
401 KAR 005:037	10-28-2025	Remain in Effect without Amendment
401 KAR 005:045	10-28-2025	Remain in Effect without Amendment
401 KAR 005:050	10-28-2025	Remain in Effect without Amendment
401 KAR 005:052	10-28-2025	Remain in Effect without Amendment
401 KAR 005:055	10-28-2025	Remain in Effect without Amendment
401 KAR 005:060	10-28-2025	To be amended; filing deadline 4-28-2027
401 KAR 005:065	10-28-2025	Remain in Effect without Amendment
401 KAR 005:075	10-28-2025	Remain in Effect without Amendment
401 KAR 005:080	10-28-2025	Remain in Effect without Amendment
401 KAR 005:320	10-28-2025	To be amended; filing deadline 4-28-2027
401 KAR 008:010	10-01-2025	To be amended; filing deadline 4-1-2027
401 KAR 008:020	10-01-2025	To be amended; filing deadline 4-1-2027
401 KAR 008:022	10-01-2025	To be amended; filing deadline 4-1-2027
401 KAR 008:040	10-01-2025	To be amended; filing deadline 4-1-2027
401 KAR 008:075	10-01-2025	Remain in Effect without Amendment
401 KAR 008:100	10-01-2025	To be amended; filing deadline 4-1-2027
401 KAR 008:150	10-01-2025	Remain in Effect without Amendment
401 KAR 008:200	10-01-2025	Remain in Effect without Amendment
401 KAR 008:250	10-01-2025	To be amended; filing deadline 4-1-2027
401 KAR 008:300	10-01-2025	To be amended; filing deadline 4-1-2027
401 KAR 008:700	10-01-2025	To be amended; filing deadline 4-1-2027
401 KAR 009:010	09-02-2025	To be amended; filing deadline 2-28-2027
401 KAR 009:020	08-29-2025	To be amended; filing deadline 2-28-2027
401 KAR 011:010	11-28-2025	To be amended; filing deadline 4-28-2027
401 KAR 011:020	10-28-2025	Remain in Effect without Amendment
401 KAR 030:005	08-29-2025	To be amended; filing deadline 2-28-2027
401 KAR 030:020	08-29-2025	Remain in Effect without Amendment
401 KAR 030:031	08-29-2025	Remain in Effect without Amendment
401 KAR 030:040	08-29-2025	Remain in Effect without Amendment
401 KAR 039:005	08-29-2025	Remain in Effect without Amendment
401 KAR 039:120	08-29-2025	Remain in Effect without Amendment
401 KAR 040:001	10-01-2025	Remain in Effect without Amendment

401 KAR 040:010	10-01-2025	Remain in Effect without Amendment
401 KAR 040:020	10-01-2025	Remain in Effect without Amendment
401 KAR 040:040	10-01-2025	Remain in Effect without Amendment
401 KAR 040:060	10-01-2025	Remain in Effect without Amendment
401 KAR 045:060	08-29-2025	To be amended; filing deadline 2-28-2027
401 KAR 045:070	08-29-2025	Remain in Effect without Amendment
401 KAR 045:090	08-29-2025	Remain in Effect without Amendment
401 KAR 045:110	08-29-2025	Remain in Effect without Amendment
401 KAR 045:130	08-29-2025	Remain in Effect without Amendment
401 KAR 045:135	08-29-2025	Remain in Effect without Amendment
401 KAR 045:210	08-29-2025	To be amended; filing deadline 2-28-2027
401 KAR 046:101	08-29-2025	Remain in Effect without Amendment
401 KAR 046:110	08-29-2025	Remain in Effect without Amendment
401 KAR 046:120	08-29-2025	To be amended; filing deadline 2-28-2027
401 KAR 047:005	10-01-2025	Remain in Effect without Amendment
401 KAR 047:025	10-01-2025	Remain in Effect without Amendment
401 KAR 047:030	10-01-2025	Remain in Effect without Amendment
401 KAR 047:070	10-01-2025	Remain in Effect without Amendment
401 KAR 047:080	10-01-2025	Remain in Effect without Amendment
401 KAR 047:090	10-01-2025	Remain in Effect without Amendment
401 KAR 047:095	10-01-2025	Remain in Effect without Amendment
401 KAR 047:100	10-01-2025	Remain in Effect without Amendment
401 KAR 047:120	10-01-2025	Remain in Effect without Amendment
401 KAR 047:130	10-01-2025	Remain in Effect without Amendment
401 KAR 047:136	10-01-2025	Remain in Effect without Amendment
401 KAR 047:140	10-01-2025	Remain in Effect without Amendment
401 KAR 047:150	10-01-2025	Remain in Effect without Amendment
401 KAR 047:160	10-01-2025	Remain in Effect without Amendment
401 KAR 047:170	10-01-2025	Remain in Effect without Amendment
401 KAR 047:180	10-01-2025	Remain in Effect without Amendment
401 KAR 047:190	10-01-2025	Remain in Effect without Amendment
401 KAR 047:205	10-01-2025	Remain in Effect without Amendment
401 KAR 047:207	10-01-2025	Remain in Effect without Amendment
401 KAR 048:005	07-22-2025	Remain in Effect without Amendment
401 KAR 048:050	07-22-2025	Remain in Effect without Amendment
401 KAR 048:060	07-22-2025	Remain in Effect without Amendment
401 KAR 048:070	07-22-2025	Remain in Effect without Amendment
401 KAR 048:080	07-22-2025	Remain in Effect without Amendment
401 KAR 048:090	07-22-2025	Remain in Effect without Amendment
401 KAR 048:170	07-22-2025	Remain in Effect without Amendment
401 KAR 048:200	08-06-2025	To be amended; filing deadline 2-8-2027
401 KAR 048:205	07-22-2025	Remain in Effect without Amendment
401 KAR 048:206	07-22-2025	Remain in Effect without Amendment
401 KAR 048:207	07-22-2025	Remain in Effect without Amendment
401 KAR 048:208	07-22-2025	Remain in Effect without Amendment
401 KAR 048:300	07-22-2025	Remain in Effect without Amendment
401 KAR 048:310	07-22-2025	Remain in Effect without Amendment
401 KAR 049:005	08-29-2025	Remain in Effect without Amendment
401 KAR 049:011	08-29-2025	Remain in Effect without Amendment
401 KAR 049:080	08-29-2025	Remain in Effect without Amendment
401 KAR 049:100	08-29-2025	To be amended; filing deadline 2-28-2027
401 KAR 050:010	11-06-2025	Remain in Effect without Amendment
401 KAR 050:012	11-06-2025	Remain in Effect without Amendment
401 KAR 050:015	11-06-2025	Remain in Effect without Amendment
401 KAR 050:020	11-06-2025	Remain in Effect without Amendment
401 KAR 050:025	11-06-2025	Remain in Effect without Amendment
401 KAR 050:038	11-06-2025	To be amended; filing deadline 5-6-2027
401 KAR 050:040	11-06-2025	Remain in Effect without Amendment
401 KAR 050:042	11-06-2025	Remain in Effect without Amendment
401 KAR 050:045	11-06-2025	Remain in Effect without Amendment
401 KAR 050:047	11-06-2025	Remain in Effect without Amendment
401 KAR 050:050	11-14-2025	Remain in Effect without Amendment
401 KAR 050:055	11-14-2025	Remain in Effect without Amendment
401 KAR 050:060	11-14-2025	Remain in Effect without Amendment
401 KAR 050:065	11-14-2025	To be amended; filing deadline 5-14-2027
401 KAR 050:066	11-14-2025	Remain in Effect without Amendment
401 KAR 051:001	06-12-2025	Remain in Effect without Amendment
401 KAR 051:005	06-12-2025	Remain in Effect without Amendment
401 KAR 051:017	06-27-2025	To be amended; filing deadline 12-27-2026

401 KAR 051:052	06-27-2025	To be amended; filing deadline 1-3-2027
401 KAR 051:150	06-05-2025	Remain in Effect without Amendment
401 KAR 051:160	06-05-2025	Remain in Effect without Amendment
401 KAR 051:170	06-27-2025	Remain in Effect without Amendment
401 KAR 051:180	06-27-2025	Remain in Effect without Amendment
401 KAR 051:190	06-27-2025	Remain in Effect without Amendment
401 KAR 051:195	06-27-2025	Remain in Effect without Amendment
401 KAR 051:210	06-12-2025	Remain in Effect without Amendment
401 KAR 051:220	06-12-2025	Remain in Effect without Amendment
401 KAR 051:230	06-12-2025	Remain in Effect without Amendment
401 KAR 051:240	06-27-2025	Remain in Effect without Amendment
401 KAR 051:250	06-27-2025	Remain in Effect without Amendment
401 KAR 051:260	06-27-2025	Remain in Effect without Amendment
401 KAR 052:001	08-28-2025	Remain in Effect without Amendment
401 KAR 052:020	08-28-2025	Remain in Effect without Amendment
401 KAR 052:030	08-28-2025	Remain in Effect without Amendment
401 KAR 052:040	08-28-2025	Remain in Effect without Amendment
401 KAR 052:050	01-20-2026	Remain in Effect without Amendment
401 KAR 052:060	08-28-2025	Remain in Effect without Amendment
401 KAR 052:070	01-20-2026	Remain in Effect without Amendment
401 KAR 052:090	08-28-2025	Remain in Effect without Amendment
401 KAR 053:005	08-28-2025	Remain in Effect without Amendment
401 KAR 053:010	08-28-2025	Remain in Effect without Amendment
401 KAR 055:005	08-28-2025	Remain in Effect without Amendment
401 KAR 055:010	08-28-2025	Remain in Effect without Amendment
401 KAR 055:015	08-28-2025	Remain in Effect without Amendment
401 KAR 055:020	08-28-2025	Remain in Effect without Amendment
401 KAR 057:002	08-28-2025	Remain in Effect without Amendment
401 KAR 058:010	06-27-2025	To be amended; filing deadline 12-27-2026
401 KAR 058:025	06-12-2025	Remain in Effect without Amendment
401 KAR 059:001	11-18-2025	Remain in Effect without Amendment
401 KAR 059:005	11-18-2025	Remain in Effect without Amendment
401 KAR 059:010	11-18-2025	Remain in Effect without Amendment
401 KAR 059:020	11-18-2025	Remain in Effect without Amendment
401 KAR 059:021	11-18-2025	Remain in Effect without Amendment
401 KAR 059:023	11-18-2025	Remain in Effect without Amendment
401 KAR 059:046	11-18-2025	Remain in Effect without Amendment
401 KAR 059:050	11-18-2025	Remain in Effect without Amendment
401 KAR 059:080	11-18-2025	Remain in Effect without Amendment
401 KAR 059:085	11-20-2025	Remain in Effect without Amendment
401 KAR 059:090	11-05-2025	Remain in Effect without Amendment
401 KAR 059:095	11-05-2025	Remain in Effect without Amendment
401 KAR 059:101	11-05-2025	Remain in Effect without Amendment
401 KAR 059:105	11-05-2025	Remain in Effect without Amendment
401 KAR 059:174	11-05-2025	Remain in Effect without Amendment
401 KAR 059:175	11-05-2025	Remain in Effect without Amendment
401 KAR 059:185	11-05-2025	Remain in Effect without Amendment
401 KAR 059:190	11-05-2025	Remain in Effect without Amendment
401 KAR 059:210	11-05-2025	Remain in Effect without Amendment
401 KAR 059:212	11-05-2025	Remain in Effect without Amendment
401 KAR 059:214	11-20-2025	Remain in Effect without Amendment
401 KAR 059:225	11-20-2025	Remain in Effect without Amendment
401 KAR 059:230	11-20-2025	Remain in Effect without Amendment
401 KAR 059:240	11-20-2025	Remain in Effect without Amendment
401 KAR 059:260	11-20-2025	Remain in Effect without Amendment
401 KAR 059:315	11-20-2025	Remain in Effect without Amendment
401 KAR 059:760	11-20-2025	Remain in Effect without Amendment
401 KAR 061:001	01-20-2026	Remain in Effect without Amendment
401 KAR 061:005	01-20-2026	Remain in Effect without Amendment
401 KAR 061:010	01-20-2026	Remain in Effect without Amendment
401 KAR 061:011	01-20-2026	To be amended; filing deadline 7-20-2027
401 KAR 061:013	01-20-2026	To be amended; filing deadline 7-20-2027
401 KAR 061:020	01-20-2026	Remain in Effect without Amendment
401 KAR 061:025	01-20-2026	Remain in Effect without Amendment
401 KAR 061:030	01-20-2026	Remain in Effect without Amendment
401 KAR 061:035	01-20-2026	Remain in Effect without Amendment
401 KAR 061:040	01-20-2026	Remain in Effect without Amendment
401 KAR 061:045	01-20-2026	Remain in Effect without Amendment
401 KAR 061:050	01-20-2026	Remain in Effect without Amendment

401 KAR 061:055	01-20-2026	Remain in Effect without Amendment
401 KAR 061:056	01-20-2026	Remain in Effect without Amendment
401 KAR 061:060	01-20-2026	Remain in Effect without Amendment
401 KAR 061:065	01-20-2026	Remain in Effect without Amendment
401 KAR 061:070	01-20-2026	Remain in Effect without Amendment
401 KAR 061:075	01-20-2026	Remain in Effect without Amendment
401 KAR 061:080	01-20-2026	Remain in Effect without Amendment
401 KAR 061:085	01-20-2026	Remain in Effect without Amendment
401 KAR 061:090	01-20-2026	Remain in Effect without Amendment
401 KAR 061:095	01-20-2026	To be amended; filing deadline 7-21-2027
401 KAR 061:100	01-20-2026	Remain in Effect without Amendment
401 KAR 061:105	01-20-2026	Remain in Effect without Amendment
401 KAR 061:110	01-20-2026	Remain in Effect without Amendment
401 KAR 061:120	01-20-2026	Remain in Effect without Amendment
401 KAR 061:122	01-20-2026	Remain in Effect without Amendment
401 KAR 061:124	01-20-2026	Remain in Effect without Amendment
401 KAR 061:125	01-20-2026	Remain in Effect without Amendment
401 KAR 061:130	01-20-2026	Remain in Effect without Amendment
401 KAR 061:132	01-20-2026	Remain in Effect without Amendment
401 KAR 061:135	01-20-2026	Remain in Effect without Amendment
401 KAR 061:137	01-20-2026	Remain in Effect without Amendment
401 KAR 061:140	01-20-2026	Remain in Effect without Amendment
401 KAR 061:145	01-20-2026	Remain in Effect without Amendment
401 KAR 061:150	01-20-2026	Remain in Effect without Amendment
401 KAR 061:155	01-20-2026	Remain in Effect without Amendment
401 KAR 061:160	01-20-2026	Remain in Effect without Amendment
401 KAR 061:165	01-20-2026	Remain in Effect without Amendment
401 KAR 061:170	01-20-2026	Remain in Effect without Amendment
401 KAR 061:175	01-20-2026	Remain in Effect without Amendment
401 KAR 063:001	08-28-2025	Remain in Effect without Amendment
401 KAR 063:005	08-28-2025	Remain in Effect without Amendment
401 KAR 063:015	08-28-2025	Remain in Effect without Amendment
401 KAR 063:020	08-28-2025	Remain in Effect without Amendment
401 KAR 063:021	08-28-2025	Remain in Effect without Amendment
401 KAR 063:025	08-28-2025	Remain in Effect without Amendment
401 KAR 063:031	08-28-2025	Remain in Effect without Amendment
401 KAR 065:001	09-09-2025	Remain in Effect without Amendment
401 KAR 065:005	09-09-2025	Remain in Effect without Amendment
401 KAR 068:010	09-09-2025	Remain in Effect without Amendment
401 KAR 068:020	09-09-2025	Remain in Effect without Amendment
401 KAR 068:048	09-09-2025	Remain in Effect without Amendment
401 KAR 068:065	09-09-2025	Remain in Effect without Amendment
401 KAR 068:090	09-09-2025	Remain in Effect without Amendment
401 KAR 068:100	09-09-2025	Remain in Effect without Amendment
401 KAR 068:150	09-09-2025	Remain in Effect without Amendment
401 KAR 068:200	09-09-2025	Remain in Effect without Amendment
401 KAR 100:030	08-06-2025	To be amended; filing deadline 2-6-2027
401 KAR 101:001	07-22-2025	Remain in Effect without Amendment
401 KAR 101:010	07-22-2025	Remain in Effect without Amendment
401 KAR 101:020	07-22-2025	Remain in Effect without Amendment
401 KAR 101:030	07-22-2025	Remain in Effect without Amendment
401 KAR 101:040	07-22-2025	Remain in Effect without Amendment
401 KAR 102:005	07-22-2025	Remain in Effect without Amendment
401 KAR 102:010	07-22-2025	Remain in Effect without Amendment
401 KAR 102:020	07-22-2025	Remain in Effect without Amendment
402 KAR 003:010	06-17-2025	Remain in Effect without Amendment
402 KAR 003:020	06-17-2025	Remain in Effect without Amendment
402 KAR 003:030	06-17-2025	Remain in Effect without Amendment
402 KAR 003:040	06-17-2025	Remain in Effect without Amendment
402 KAR 003:050	06-17-2025	Remain in Effect without Amendment
405 KAR 002:010	06-17-2025	Remain in Effect without Amendment
405 KAR 005:015	06-17-2025	Remain in Effect without Amendment
405 KAR 005:021	06-17-2025	Remain in Effect without Amendment
405 KAR 005:036	06-17-2025	Remain in Effect without Amendment
405 KAR 005:040	06-17-2025	Remain in Effect without Amendment
405 KAR 005:042	06-17-2025	Remain in Effect without Amendment
405 KAR 005:050	06-17-2025	Remain in Effect without Amendment
405 KAR 005:055	06-17-2025	Remain in Effect without Amendment
405 KAR 005:062	06-17-2025	Remain in Effect without Amendment

405 KAR 005:065	06-17-2025	Remain in Effect without Amendment
405 KAR 005:070	06-17-2025	Remain in Effect without Amendment
405 KAR 005:078	06-17-2025	Remain in Effect without Amendment
405 KAR 005:082	06-17-2025	Remain in Effect without Amendment
405 KAR 005:085	06-17-2025	Remain in Effect without Amendment
405 KAR 007:001	06-10-2025	Remain in Effect without Amendment
405 KAR 007:015	06-10-2025	Remain in Effect without Amendment
405 KAR 007:030	06-10-2025	Remain in Effect without Amendment
405 KAR 007:035	06-10-2025	Remain in Effect without Amendment
405 KAR 007:060	06-10-2025	Remain in Effect without Amendment
405 KAR 007:070	06-10-2025	Remain in Effect without Amendment
405 KAR 007:080	06-10-2025	Remain in Effect without Amendment
405 KAR 007:095	06-10-2025	Remain in Effect without Amendment
405 KAR 007:097	06-10-2025	Remain in Effect without Amendment
405 KAR 007:100	06-10-2025	Remain in Effect without Amendment
405 KAR 007:110	06-10-2025	Remain in Effect without Amendment
405 KAR 008:001	06-10-2025	Remain in Effect without Amendment
405 KAR 008:020	06-10-2025	Remain in Effect without Amendment
405 KAR 008:040	06-10-2025	Remain in Effect without Amendment
405 KAR 008:050	06-10-2025	Remain in Effect without Amendment
405 KAR 010:025	06-30-2025	Remain in Effect without Amendment
405 KAR 010:030	06-30-2025	Remain in Effect without Amendment
405 KAR 010:035	06-30-2025	Remain in Effect without Amendment
405 KAR 010:040	06-30-2025	Remain in Effect without Amendment
405 KAR 010:070	06-30-2025	Remain in Effect without Amendment
405 KAR 010:080	06-30-2025	Remain in Effect without Amendment
405 KAR 010:090	06-30-2025	Remain in Effect without Amendment
405 KAR 012:001	06-10-2025	Remain in Effect without Amendment
405 KAR 012:010	06-10-2025	Remain in Effect without Amendment
405 KAR 012:020	06-10-2025	Remain in Effect without Amendment
405 KAR 012:030	06-10-2025	Remain in Effect without Amendment
405 KAR 016:001	06-10-2025	Remain in Effect without Amendment
405 KAR 016:010	06-10-2025	Remain in Effect without Amendment
405 KAR 016:020	06-10-2025	Remain in Effect without Amendment
405 KAR 016:030	06-10-2025	Remain in Effect without Amendment
405 KAR 016:040	06-10-2025	Remain in Effect without Amendment
405 KAR 016:050	06-10-2025	Remain in Effect without Amendment
405 KAR 016:060	06-10-2025	Remain in Effect without Amendment
405 KAR 016:070	06-10-2025	Remain in Effect without Amendment
405 KAR 016:080	06-10-2025	Remain in Effect without Amendment
405 KAR 016:090	06-10-2025	Remain in Effect without Amendment
405 KAR 016:110	06-10-2025	Remain in Effect without Amendment
405 KAR 016:120	06-10-2025	Remain in Effect without Amendment
405 KAR 016:130	06-10-2025	Remain in Effect without Amendment
405 KAR 016:140	06-10-2025	Remain in Effect without Amendment
405 KAR 016:150	06-10-2025	Remain in Effect without Amendment
405 KAR 016:160	06-10-2025	Remain in Effect without Amendment
405 KAR 016:170	06-10-2025	Remain in Effect without Amendment
405 KAR 016:180	06-10-2025	Remain in Effect without Amendment
405 KAR 016:190	06-10-2025	Remain in Effect without Amendment
405 KAR 016:200	06-10-2025	Remain in Effect without Amendment
405 KAR 016:220	06-10-2025	Remain in Effect without Amendment
405 KAR 016:250	06-10-2025	Remain in Effect without Amendment
405 KAR 018:001	06-26-2025	Remain in Effect without Amendment
405 KAR 018:010	06-26-2025	Remain in Effect without Amendment
405 KAR 018:020	06-26-2025	Remain in Effect without Amendment
405 KAR 018:030	06-26-2025	Remain in Effect without Amendment
405 KAR 018:040	06-26-2025	Remain in Effect without Amendment
405 KAR 018:050	06-26-2025	Remain in Effect without Amendment
405 KAR 018:060	06-26-2025	Remain in Effect without Amendment
405 KAR 018:070	06-26-2025	Remain in Effect without Amendment
405 KAR 018:080	06-26-2025	Remain in Effect without Amendment
405 KAR 018:090	06-26-2025	Remain in Effect without Amendment
405 KAR 018:110	06-26-2025	Remain in Effect without Amendment
405 KAR 018:120	06-26-2025	Remain in Effect without Amendment
405 KAR 018:130	06-26-2025	Remain in Effect without Amendment
405 KAR 018:140	06-26-2025	Remain in Effect without Amendment
405 KAR 018:150	06-26-2025	Remain in Effect without Amendment
405 KAR 018:160	06-26-2025	Remain in Effect without Amendment

405 KAR 018:170	06-26-2025	Remain in Effect without Amendment
405 KAR 018:180	06-26-2025	Remain in Effect without Amendment
405 KAR 018:190	06-26-2025	Remain in Effect without Amendment
405 KAR 018:200	06-26-2025	Remain in Effect without Amendment
405 KAR 018:210	06-26-2025	Remain in Effect without Amendment
405 KAR 018:230	06-26-2025	Remain in Effect without Amendment
405 KAR 018:260	06-26-2025	Remain in Effect without Amendment
405 KAR 020:001	06-30-2025	Remain in Effect without Amendment
405 KAR 020:010	06-30-2025	Remain in Effect without Amendment
405 KAR 020:030	06-30-2025	Remain in Effect without Amendment
405 KAR 020:050	06-30-2025	Remain in Effect without Amendment
405 KAR 020:060	06-30-2025	Remain in Effect without Amendment
405 KAR 020:070	06-30-2025	Remain in Effect without Amendment
405 KAR 020:080	06-30-2025	Remain in Effect without Amendment
405 KAR 020:090	06-30-2025	Remain in Effect without Amendment
405 KAR 024:001	06-26-2025	Remain in Effect without Amendment
405 KAR 024:020	06-26-2025	Remain in Effect without Amendment
405 KAR 024:030	06-26-2025	Remain in Effect without Amendment
405 KAR 024:040	06-26-2025	Remain in Effect without Amendment
405 KAR 030:010	06-30-2025	Remain in Effect without Amendment
405 KAR 030:015	06-30-2025	Remain in Effect without Amendment
405 KAR 030:020	06-30-2025	Remain in Effect without Amendment
405 KAR 030:025	06-30-2025	Remain in Effect without Amendment
405 KAR 030:035	06-30-2025	Remain in Effect without Amendment
405 KAR 030:040	06-30-2025	Remain in Effect without Amendment
405 KAR 030:050	06-30-2025	Remain in Effect without Amendment
405 KAR 030:060	06-30-2025	Remain in Effect without Amendment
405 KAR 030:070	06-30-2025	Remain in Effect without Amendment
405 KAR 030:080	06-30-2025	Remain in Effect without Amendment
405 KAR 030:090	06-30-2025	Remain in Effect without Amendment
405 KAR 030:100	06-30-2025	Remain in Effect without Amendment
405 KAR 030:110	06-30-2025	Remain in Effect without Amendment
405 KAR 030:121	06-30-2025	Remain in Effect without Amendment
405 KAR 030:125	06-30-2025	Remain in Effect without Amendment
405 KAR 030:130	06-30-2025	Remain in Effect without Amendment
405 KAR 030:140	06-30-2025	Remain in Effect without Amendment
405 KAR 030:150	06-30-2025	Remain in Effect without Amendment
405 KAR 030:160	06-30-2025	Remain in Effect without Amendment
405 KAR 030:170	06-30-2025	Remain in Effect without Amendment
405 KAR 030:180	06-30-2025	Remain in Effect without Amendment
405 KAR 030:210	06-30-2025	Remain in Effect without Amendment
405 KAR 030:220	06-30-2025	Remain in Effect without Amendment
405 KAR 030:230	06-30-2025	Remain in Effect without Amendment
405 KAR 030:240	06-30-2025	Remain in Effect without Amendment
405 KAR 030:250	06-30-2025	Remain in Effect without Amendment
405 KAR 030:260	06-30-2025	Remain in Effect without Amendment
405 KAR 030:270	06-30-2025	Remain in Effect without Amendment
405 KAR 030:280	06-30-2025	Remain in Effect without Amendment
405 KAR 030:290	06-30-2025	Remain in Effect without Amendment
405 KAR 030:300	06-30-2025	Remain in Effect without Amendment
405 KAR 030:310	06-30-2025	Remain in Effect without Amendment
405 KAR 030:320	06-30-2025	Remain in Effect without Amendment
405 KAR 030:330	06-30-2025	Remain in Effect without Amendment
405 KAR 030:340	06-30-2025	Remain in Effect without Amendment
405 KAR 030:350	06-30-2025	Remain in Effect without Amendment
405 KAR 030:360	06-30-2025	Remain in Effect without Amendment
405 KAR 030:370	06-30-2025	Remain in Effect without Amendment
405 KAR 030:390	06-30-2025	Remain in Effect without Amendment
405 KAR 030:400	06-30-2025	Remain in Effect without Amendment
405 KAR 030:410	06-30-2025	Remain in Effect without Amendment
500 KAR 008:010	12-09-2025	Remain in Effect without Amendment
500 KAR 008:010	12-17-2025	Remain in Effect without Amendment
500 KAR 008:020	12-17-2025	Remain in Effect without Amendment
500 KAR 008:020	12-09-2025	Remain in Effect without Amendment
500 KAR 008:030	12-05-2025	Remain in Effect without Amendment
500 KAR 008:030	12-17-2025	Remain in Effect without Amendment
501 KAR 006:170	06-27-2025	To be amended; filing deadline 12-27-2026
501 KAR 006:270	06-27-2025	To be amended; filing deadline 12-27-2026
501 KAR 016:290	06-27-2025	Remain in Effect without Amendment

501 KAR 016:300	06-27-2025	Remain in Effect without Amendment
501 KAR 016:330	06-27-2025	Remain in Effect without Amendment
501 KAR 016:340	06-27-2025	Remain in Effect without Amendment
503 KAR 005:090	10-01-2025	To be amended; filing deadline 4-1-2027
600 KAR 003:020	12-05-2025	Remain in Effect without Amendment
600 KAR 003:030	12-05-2025	Remain in Effect without Amendment
600 KAR 005:010	12-05-2025	Remain in Effect without Amendment
600 KAR 006:080	01-09-2026	Remain in Effect without Amendment
601 KAR 001:018	01-09-2026	To be amended; filing deadline 7-9-2027
601 KAR 001:019	01-09-2026	Remain in Effect without Amendment
601 KAR 001:146	01-09-2026	Remain in Effect without Amendment
601 KAR 001:147	01-09-2026	Remain in Effect without Amendment
601 KAR 001:201	01-09-2026	Remain in Effect without Amendment
601 KAR 002:020	01-09-2026	Remain in Effect without Amendment
601 KAR 009:012	01-09-2026	Remain in Effect without Amendment
601 KAR 009:080	01-09-2026	Remain in Effect without Amendment
601 KAR 009:085	01-09-2026	Remain in Effect without Amendment
601 KAR 009:200	01-09-2026	Remain in Effect without Amendment
601 KAR 011:010	01-09-2026	Remain in Effect without Amendment
601 KAR 011:020	01-09-2026	Remain in Effect without Amendment
601 KAR 011:030	01-09-2026	Remain in Effect without Amendment
601 KAR 011:035	01-09-2026	Remain in Effect without Amendment
601 KAR 011:050	01-09-2026	Remain in Effect without Amendment
601 KAR 011:080	01-09-2026	Remain in Effect without Amendment
601 KAR 012:020	01-09-2026	Remain in Effect without Amendment
601 KAR 012:050	01-09-2026	Remain in Effect without Amendment
601 KAR 012:060	01-09-2026	Remain in Effect without Amendment
601 KAR 012:070	01-09-2026	Remain in Effect without Amendment
601 KAR 013:025	01-09-2026	Remain in Effect without Amendment
601 KAR 013:031	01-09-2026	Remain in Effect without Amendment
601 KAR 013:040	01-09-2026	Remain in Effect without Amendment
601 KAR 013:070	01-09-2026	Remain in Effect without Amendment
601 KAR 013:110	01-09-2026	Remain in Effect without Amendment
603 KAR 001:020	12-05-2025	Remain in Effect without Amendment
603 KAR 003:030	12-05-2025	Remain in Effect without Amendment
603 KAR 004:055	12-05-2025	Remain in Effect without Amendment
603 KAR 005:071	12-05-2025	Remain in Effect without Amendment
603 KAR 005:120	12-05-2025	Remain in Effect without Amendment
603 KAR 007:090	12-16-2025	Remain in Effect without Amendment
603 KAR 008:010	12-05-2025	Remain in Effect without Amendment
605 KAR 001:020	12-04-2025	Remain in Effect without Amendment
605 KAR 001:031	12-04-2025	Remain in Effect without Amendment
605 KAR 001:060	12-04-2025	Remain in Effect without Amendment
605 KAR 001:160	12-04-2025	Remain in Effect without Amendment
605 KAR 001:170	12-04-2025	Remain in Effect without Amendment
702 KAR 001:160	12-03-2025	Remain in Effect without Amendment
702 KAR 003:020	06-09-2025	Remain in Effect without Amendment
702 KAR 003:030	06-09-2025	Remain in Effect without Amendment
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702 KAR 003:250	06-09-2025	Remain in Effect without Amendment
702 KAR 003:270	06-09-2025	Remain in Effect without Amendment
702 KAR 003:275	06-09-2025	Remain in Effect without Amendment
702 KAR 003:285	06-09-2025	Remain in Effect without Amendment
702 KAR 003:310	06-09-2025	Remain in Effect without Amendment
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702 KAR 005:010	06-09-2025	Remain in Effect without Amendment
702 KAR 005:020	06-09-2025	Remain in Effect without Amendment
702 KAR 005:060	06-09-2025	Remain in Effect without Amendment
702 KAR 005:100	06-09-2025	Remain in Effect without Amendment
702 KAR 005:120	06-09-2025	Remain in Effect without Amendment
702 KAR 005:130	08-27-2025	To be amended; filing deadline 2-27-2027
702 KAR 005:150	06-09-2025	Remain in Effect without Amendment
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704 KAR 003:015	06-09-2025	Remain in Effect without Amendment
704 KAR 003:285	06-09-2025	Remain in Effect without Amendment
704 KAR 003:292	06-09-2025	Remain in Effect without Amendment

704 KAR 003:406	10-14-2025	To be amended; filing deadline 4-14-2027
704 KAR 003:410	10-14-2025	To be amended; filing deadline 4-14-2027
704 KAR 003:420	06-09-2025	Remain in Effect without Amendment
704 KAR 003:440	08-27-2025	To be amended; filing deadline 2-27-2027
704 KAR 003:455	08-11-2025	Remain in Effect without Amendment
704 KAR 003:490	06-09-2025	Remain in Effect without Amendment
704 KAR 003:510	06-09-2025	Remain in Effect without Amendment
704 KAR 004:010	08-27-2025	To be amended; filing deadline 2-27-2027
704 KAR 005:060	10-02-2025	Remain in Effect without Amendment
704 KAR 007:130	06-09-2025	Remain in Effect without Amendment
704 KAR 008:010	12-03-2025	Remain in Effect without Amendment
705 KAR 003:141	10-02-2025	Remain in Effect without Amendment
705 KAR 004:081	06-09-2025	Remain in Effect without Amendment
705 KAR 004:240	10-02-2025	Remain in Effect without Amendment
707 KAR 001:270	06-09-2025	Remain in Effect without Amendment
707 KAR 001:290	06-09-2025	Remain in Effect without Amendment
707 KAR 001:300	06-09-2025	Remain in Effect without Amendment
707 KAR 001:320	06-09-2025	Remain in Effect without Amendment
707 KAR 001:350	06-09-2025	Remain in Effect without Amendment
707 KAR 001:360	06-09-2025	Remain in Effect without Amendment
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735 KAR 001:020	08-05-2025	Remain in Effect without Amendment
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735 KAR 002:010	08-05-2025	Remain in Effect without Amendment
735 KAR 002:020	08-05-2025	Remain in Effect without Amendment
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735 KAR 002:040	08-05-2025	Remain in Effect without Amendment
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735 KAR 002:060	08-05-2025	Remain in Effect without Amendment
750 KAR 001:010	05-29-2025	Remain in Effect without Amendment
750 KAR 002:010	05-29-2025	Remain in Effect without Amendment
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780 KAR 002:110	06-09-2025	Remain in Effect without Amendment
780 KAR 003:010	06-09-2025	Remain in Effect without Amendment
780 KAR 003:040	06-09-2025	Remain in Effect without Amendment
780 KAR 003:060	06-09-2025	Remain in Effect without Amendment
780 KAR 003:065	06-09-2025	Remain in Effect without Amendment
780 KAR 003:075	06-09-2025	Remain in Effect without Amendment
780 KAR 003:090	06-09-2025	Remain in Effect without Amendment
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780 KAR 007:040	10-02-2025	Remain in Effect without Amendment
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805 KAR 001:220	05-21-2025	Remain in Effect without Amendment
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805 KAR 004:010	06-02-2025	Remain in Effect without Amendment
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805 KAR 004:030	06-02-2025	Remain in Effect without Amendment
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805 KAR 004:060	06-02-2025	Remain in Effect without Amendment
805 KAR 004:075	06-02-2025	Remain in Effect without Amendment
805 KAR 004:080	06-02-2025	Remain in Effect without Amendment
805 KAR 004:085	06-02-2025	Remain in Effect without Amendment
805 KAR 004:087	06-02-2025	Remain in Effect without Amendment
805 KAR 004:090	06-02-2025	Remain in Effect without Amendment

805 KAR 004:093	06-02-2025	Remain in Effect without Amendment
805 KAR 004:095	06-02-2025	Remain in Effect without Amendment
805 KAR 004:100	06-02-2025	Remain in Effect without Amendment
805 KAR 004:105	06-02-2025	Remain in Effect without Amendment
805 KAR 004:110	06-02-2025	Remain in Effect without Amendment
805 KAR 004:115	06-02-2025	Remain in Effect without Amendment
805 KAR 004:120	06-02-2025	Remain in Effect without Amendment
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805 KAR 004:130	06-02-2025	Remain in Effect without Amendment
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806 KAR 017:020	10-29-2025	Remain in Effect without Amendment
806 KAR 017:360	10-29-2025	Remain in Effect without Amendment
815 KAR 002:010	11-24-2025	To be amended; filing deadline 5-24-2027
815 KAR 002:020	11-24-2025	To be amended; filing deadline 5-24-2027
815 KAR 002:030	11-24-2025	Remain in Effect without Amendment
815 KAR 002:040	11-24-2025	Remain in Effect without Amendment
815 KAR 007:070	12-04-2025	To be amended; filing deadline 6-4-2027
815 KAR 008:030	12-04-2025	Remain in Effect without Amendment
815 KAR 008:070	07-29-2025	To be amended; filing deadline 1-30-2027
815 KAR 008:080	07-29-2025	To be amended; filing deadline 1-30-2027
815 KAR 008:100	07-29-2025	To be amended; filing deadline 1-30-2027
815 KAR 015:080	12-04-2025	To be amended; filing deadline 6-4-2027
815 KAR 025:001	12-03-2025	Remain in Effect without Amendment
815 KAR 025:040	12-03-2025	Remain in Effect without Amendment
815 KAR 025:050	12-03-2025	To be amended; filing deadline 6-3-2027
815 KAR 025:090	12-03-2025	To be amended; filing deadline 6-3-2027
815 KAR 025:100	12-03-2025	Remain in Effect without Amendment
815 KAR 035:080	12-03-2025	To be amended; filing deadline 6-3-2027
815 KAR 035:090	12-03-2025	Remain in Effect without Amendment
820 KAR 001:042	12-23-2025	Remain in Effect without Amendment
820 KAR 001:055	12-23-2025	Remain in Effect without Amendment
820 KAR 001:057	12-23-2025	Remain in Effect without Amendment
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900 KAR 002:010	12-29-2025	Remain in Effect without Amendment
900 KAR 002:040	12-29-2025	Remain in Effect without Amendment
900 KAR 002:060	12-29-2025	Remain in Effect without Amendment
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900 KAR 006:040	05-19-2025	Remain in Effect without Amendment
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902 KAR 011:010	12-29-2025	Remain in Effect without Amendment
902 KAR 011:020	12-29-2025	Remain in Effect without Amendment
902 KAR 011:030	12-29-2025	Remain in Effect without Amendment
902 KAR 011:035	12-29-2025	Remain in Effect without Amendment
902 KAR 011:040	12-29-2025	Remain in Effect without Amendment
902 KAR 011:045	12-29-2025	Remain in Effect without Amendment
902 KAR 011:050	12-29-2025	Remain in Effect without Amendment
902 KAR 019:010	01-08-2026	Remain in Effect without Amendment

902 KAR 020:008	09-03-2025	Remain in Effect without Amendment
902 KAR 020:009	11-24-2025	Remain in Effect without Amendment
902 KAR 020:012	11-24-2025	Remain in Effect without Amendment
902 KAR 020:260	05-19-2025	Remain in Effect without Amendment
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902 KAR 055:080	11-24-2025	Remain in Effect without Amendment
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902 KAR 055:120	11-24-2025	Remain in Effect without Amendment
902 KAR 100:022	05-19-2025	Remain in Effect without Amendment
902 KAR 100:052	05-19-2025	Remain in Effect without Amendment
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902 KAR 115:020	01-07-2026	Remain in Effect without Amendment
906 KAR 001:100	12-01-2025	Remain in Effect without Amendment
906 KAR 001:120	11-24-2025	Remain in Effect without Amendment
906 KAR 001:140	11-24-2025	Remain in Effect without Amendment
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907 KAR 001:075	08-13-2025	Remain in Effect without Amendment
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907 KAR 001:280	01-07-2026	Remain in Effect without Amendment
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907 KAR 008:040	09-19-2025	Remain in Effect without Amendment
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922 KAR 001:010	01-08-2026	Remain in Effect without Amendment
922 KAR 001:050	01-08-2026	Remain in Effect without Amendment
922 KAR 001:305	01-08-2026	Remain in Effect without Amendment
922 KAR 001:400	01-08-2026	Remain in Effect without Amendment
922 KAR 002:190	06-17-2025	Remain in Effect without Amendment
922 KAR 002:270	06-17-2025	Remain in Effect without Amendment

TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments made during the 49th year of the *Administrative Register of Kentucky*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 13A.312(2), or 13A.320(1)(d). Because these changes are not substantive in nature, administrative regulations appearing in this index will NOT be published to show the technical corrections in the *Register*, however, they are usually available on the Legislative Research Commission website at https://apps.legislature.ky.gov/law/kar/titles.htm

‡ - A technical change was made to this administrative regulation during the promulgation process, pursuant to KRS 13A.320(1)(e).
† - A nonsubstantive change was made by the Compiler pursuant to KRS 13A.040(9).

Regulation Number	Date Corrected	Regulation Number	Date Corrected
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105 KAR 001:345	10-7-2025		
105 KAR 001:345	10-7-2025		
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302 KAR 045:020	7-24-2025		
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401 KAR 050:010	10-20-2025		
401 KAR 052:001	10-20-2025		
401 KAR 059:001	10-20-2025		
401 KAR 061:001	10-20-2025		
401 KAR 063:001	10-20-2025		
401 KAR 065:001	10-20-2025		
810 KAR 003:020	10-6-2025		
922 KAR 005:150	9-26-2025		
922 KAR 005:170	9-26-2025		

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