

1 AN ACT relating to public assistance recipients.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 205.010 TO 205.310 IS CREATED
4 TO READ AS FOLLOWS:

5 *The Kentucky Transitional Assistance Program, as the monetary assistance program*
6 *established by the Commonwealth using federal funds from the Temporary Assistance*
7 *for Needy Families block grant, and any other similar programs or institutions*
8 *hereafter established by state or federal law to administer public assistance to needy*
9 *aged, needy blind, needy permanently and totally disabled persons, needy children, or*
10 *persons with whom a needy child lives or a family containing a combination of these*
11 *categories, shall allocate federal funds in the following manner:*

12 *(1) Twenty-five percent (25%) for child care programs;*

13 *(2) Twenty-five percent (25%) for work, education, and training programs, which*
14 *may be used to satisfy any public assistance recipient community engagement*
15 *requirements;*

16 *(3) Twenty-five percent (25%) for work supports and supportive services, which may*
17 *be used to satisfy any public assistance recipient community engagement*
18 *requirements;*

19 *(4) Fifteen percent (15%) for basic assistance;*

20 *(5) Five percent (5%) for nonrecurrent short-term benefits; and*

21 *(6) Five percent (5%) for program maintenance.*

22 ➔SECTION 2. A NEW SECTION OF KRS 205.010 TO 205.350 IS CREATED
23 TO READ AS FOLLOWS:

24 *(1) As used in this section:*

25 *(a) "Able-bodied working-age adult" means an adult recipient of the*
26 *Supplemental Nutrition Assistance Program, formerly known as the federal*
27 *food stamps program who:*

- 1 1. Is nineteen (19) to sixty-four (64) years of age; and
 2 2. Is a biological or adoptive parent, stepparent, or caretaker, who is
 3 responsible for the care of a school-aged household member aged six
 4 (6) to seventeen (17) years of age; and
 5 (b) "Community engagement" means participating in training, education, and
 6 employment.
 7 (2) It shall be the policy of the Commonwealth to develop a plan for able-bodied
 8 working-age adults that will prepare members for transitioning to no longer
 9 needing to participate in the Supplemental Nutrition Assistance Program,
 10 formerly known as the federal food stamps program.
 11 (3) The cabinet shall assign an able-bodied working-age adult subject to
 12 requirements established under 7 U.S.C. sec. 2015(d)(1), but not subject to
 13 requirements established under 7 U.S.C. sec. 2015(o) or not otherwise
 14 participating in an employment and training program established under 7 U.S.C.
 15 sec. 2015(d)(4), to a workfare program established under 7 U.S.C. sec. 2029.
 16 (4) The cabinet shall promulgate administrative regulations to implement this
 17 section.

18 ➔SECTION 3. A NEW SECTION OF KRS 205.510 TO 205.560 IS CREATED
 19 TO READ AS FOLLOWS:

- 20 (1) As used in this section:
 21 (a) "Able-bodied working-age adult" means an adult Medicaid beneficiary who
 22 is nineteen (19) to sixty-four (64) years of age; and
 23 (b) "Community engagement" means participating in training, education, and
 24 employment.
 25 (2) It shall be the policy of the Commonwealth to develop a plan for Medicaid able-
 26 bodied working-age adults that will prepare members for transition to private
 27 market coverage that shall include cost-sharing provisions.

- 1 (3) The cabinet shall maintain a program for able-bodied working-age adults to
2 enable enrollees to improve their health and well-being through community
3 engagement leading to self-sufficiency.
- 4 (4) (a) In compliance with applicable federal law, the cabinet shall implement a
5 community engagement requirement as a condition of eligibility for able-
6 bodied working-age adults, with exemptions for various groups, including
7 but not limited to:
- 8 1. Former foster care youth;
9 2. Pregnant women;
10 3. Beneficiaries considered medically frail;
11 4. Beneficiaries diagnosed with an acute medical condition that would
12 prevent them from complying with the requirements; and
13 5. Full-time students.
- 14 (b) To remain eligible for coverage, non-exempt beneficiaries shall complete
15 eighty (80) hours per month of community engagement.
- 16 (5) The secretary shall promulgate administrative regulations to implement the
17 program described in subsection (4) of this section, including the requirements
18 for community engagement. The administrative regulations shall include at a
19 minimum the following:
- 20 (a) The community engagement requirements for able-bodied working-age
21 adult beneficiaries, including reporting and verification requirements and
22 types of acceptable community engagement activities;
- 23 (b) Qualifications for exemptions for the groups identified in subsection (4)(a)
24 of this section and for good cause exceptions in certain circumstances for
25 able-bodied working-age adult beneficiaries who cannot meet requirements;
- 26 (c) Eligibility suspension for failure to demonstrate compliance with the
27 community engagement requirement;

1 (d) Reactivation of eligibility; and

2 (e) Other requirements necessary to implement the community engagement
3 requirements.

4 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) Within ninety (90) days of the effective date of this Act, the Cabinet for Health
7 and Family Services shall design, implement, and distribute new benefit cards to
8 new enrollees for services under this chapter.

9 (2) The new design shall exercise the state option to incorporate a photograph of the
10 benefit recipient as allowed by 7 U.S.C. sec. 2016(h)(9). The cabinet shall adopt
11 procedures that align with federal regulations regarding photographs on
12 electronic benefit transfer cards in 7 C.F.R. pts. 272, 273, 274, and 278.

13 (3) Upon renewal of his or her benefit cards, a current recipient shall be issued a
14 card conforming to the requirements in subsection (2) of this section.

15 (4) (a) A retailer participating in the food stamp program shall request that a
16 recipient show his or her card when purchasing qualifying items. The
17 retailer or retailer's agent shall verify that the name and likeness of the
18 recipient match the person purchasing the qualifying items.

19 (b) The cabinet shall adopt a mechanism by which a food stamp program
20 participant may designate another individual to temporarily purchase
21 qualifying items for the food stamp program participant.

22 (c) Any policy adopted by the cabinet pursuant to this subsection shall
23 encourage a participant to select an immediate family member or member
24 of his or her household in authorizing the temporary purchase of qualifying
25 items.

26 (d) The names of individuals designated to purchase qualifying items
27 temporarily shall be tracked electronically by the cabinet.

1 *(e) The cabinet shall adopt a policy that no individual may be designated to*
2 *temporarily purchase qualifying items for more than six (6) recipients at*
3 *one (1) time, and the cabinet may establish an annual limit on the number*
4 *of instances and recipients that an individual may be designated to*
5 *purchase qualifying items as necessary to prevent waste and fraud.*

6 ➔Section 5. KRS 205.200 is amended to read as follows:

- 7 (1) A needy aged person, a needy blind person, a needy child, a needy permanently and
8 totally disabled person, or a person with whom a needy child lives shall be eligible
9 to receive a public assistance grant only if he has made a proper application or an
10 application has been made on his behalf in the manner and form prescribed by
11 administrative regulation. No individual shall be eligible to receive public
12 assistance under more than one (1) category of public assistance for the same period
13 of time.
- 14 (2) The secretary shall, by administrative regulations, prescribe the conditions of
15 eligibility for public assistance in conformity with the public assistance titles of the
16 Social Security Act, its amendments, and other federal acts and regulations. The
17 secretary shall also promulgate administrative regulations to allow for between a
18 forty percent (40%) and a forty-five percent (45%) ratable reduction in the method
19 of calculating eligibility and benefits for public assistance under Title IV-A of the
20 Federal Social Security Act. In no instance shall grants to families with no income
21 be less than the appropriate grant maximum used for public assistance under Title
22 IV-A of the Federal Social Security Act. As used in this section, "ratable reduction"
23 means the percentage reduction applied to the deficit between the family's countable
24 income and the standard of need for the appropriate family size.
- 25 (3) The secretary may by administrative regulation prescribe as a condition of eligibility
26 that a needy child regularly attend school, and may further by administrative
27 regulation prescribe the degree of relationship of the person or persons in whose

1 home such needy child must reside.

2 (4) The secretary may by administrative regulation prescribe conditions for bringing
3 paternity proceedings or actions for support in cases of out of wedlock birth or
4 nonsupport by a parent in the public assistance under Title IV-A of the Federal
5 Social Security Act program.

6 (5) Public assistance shall not be payable to or in behalf of any individual who has
7 taken any legal action in his own behalf or in the behalf of others with the intent and
8 purpose of creating eligibility for the assistance.

9 (6) The cabinet shall promptly notify the appropriate law enforcement officials of the
10 furnishing of public assistance under Title IV-A of the Federal Social Security Act
11 in respect to a child who has been deserted or abandoned by a parent.

12 (7) No person shall be eligible for public assistance payments if, after having been
13 determined to be potentially responsible, and afforded notice and opportunity for
14 hearing, he refuses without good cause:

15 (a) To register for employment with the state employment service,

16 (b) To accept suitable training, or

17 (c) To accept suitable employment.

18 The secretary may prescribe by administrative regulation, subject to the provisions
19 of KRS Chapter 13A, standards of suitability for training and employment.

20 (8) To the extent permitted by federal law, scholarships, grants, or other types of
21 financial assistance for education shall not be considered as income for the purpose
22 of determining eligibility for public assistance.

23 (9) To the extent permitted by federal law, any money received because of a settlement
24 or judgment in a lawsuit brought against a manufacturer or distributor of "Agent
25 Orange" for damages resulting from exposure to "Agent Orange" by a member or
26 veteran of the Armed Forces of the United States or any dependent of such person
27 who served in Vietnam shall not be considered as income for the purpose of

1 determining eligibility or continuing eligibility for public assistance and shall not be
2 subject to a lien or be available for repayment to the Commonwealth for public
3 assistance received by the recipient.

4 (10) (a) Notwithstanding any other provision of Kentucky law, the following shall be
5 disregarded for the purposes of determining an individual's eligibility for a
6 means-tested public assistance program, and the amount of assistance or
7 benefits the individual is eligible to receive under the program:

- 8 1. Any amount in an ABLE account;
- 9 2. Any contributions to an ABLE account; and
- 10 3. Any distribution from an ABLE account for qualified disability
11 expenses.

12 (b) For purposes of this subsection:

- 13 1. "ABLE account" means an account established within any state having a
14 qualified ABLE program as provided in 26 U.S.C. sec. 529A, as
15 amended;
- 16 2. "Kentucky law" includes:
 - 17 a. All provisions of the Kentucky Revised Statutes;
 - 18 b. Any contract to provide Medicaid managed care established
19 pursuant to this chapter;
 - 20 c. Any agreement to operate a Medicaid program established
21 pursuant to this chapter; and
 - 22 d. Any administrative regulation promulgated pursuant to this
23 chapter; and
- 24 3. "Qualified disability expenses" means expenses described in 26 U.S.C.
25 sec. 529A of a person who is the beneficiary of an ABLE account.

26 **(11) (a) The cabinet shall design and implement a substance abuse screening**
27 **program for adult persons with a felony or misdemeanor history of**

1 substance abuse receiving or seeking to receive monetary public assistance,
2 food stamps under Supplemental Nutrition Assistance Program, formerly
3 known as the federal food stamp program, or assistance under the state
4 Medical Assistance Program. The screening program may include written
5 questionnaires and periodic testing of the person's blood or urine or may
6 implement other reliable methods of determining substance abuse.

7 (b) An adult person with a felony or misdemeanor history of substance abuse
8 shall be ineligible for public assistance if he or she:

9 1. Does not participate in the substance abuse screening program
10 established under this subsection; or

11 2. Refuses to comply with the requirements of paragraph (e) of this
12 subsection after a positive result on a test administered by the program
13 for the presence of:

14 a. A Schedule I controlled substance; or

15 b. A Schedule II, III, IV, or V controlled substance not prescribed
16 for that person.

17 (c) The substance abuse testing component of the screening program shall be
18 designed to require that testing occurs as an initial condition precedent
19 prior to the receipt of public assistance and once each subsequent year the
20 adult person receives public assistance, with the person being randomly
21 assigned a month within that year to submit to testing upon receipt of
22 reasonable notice from the cabinet.

23 (d) The results of testing conducted under this subsection shall not be
24 admissible in any criminal proceeding without the consent of the person
25 tested.

26 (e) The secretary shall promulgate administrative regulations to prescribe the
27 design, operation, and standards for the implementation of this subsection

1 and shall, when necessary, consider the best interests of any children in the
2 home of a recipient of public assistance. The administrative regulations
3 shall include:

4 1. A requirement that, in two (2) parent families, both parents comply
5 with all substance abuse screening requirements if both have a felony
6 or misdemeanor history of substance abuse;

7 2. A requirement that the public assistance applicant pay all substance
8 abuse screening costs. If a person passes the substance abuse
9 screening, his or her costs shall be reimbursed through increasing the
10 initial benefit by the amount paid for the screening;

11 3. A requirement that each person sign a written acknowledgement
12 stating that he or she has received and understands the substance
13 abuse screening policy;

14 4. A policy that a person who fails a substance abuse screening has the
15 right to additional screenings;

16 5. A policy that a person who has tested positive for a substance
17 described in paragraph (b)2. of this subsection will be provided with a
18 list of licensed substance abuse treatment providers available in his or
19 her area;

20 6. A policy that a person who has tested positive for a substance
21 described in paragraph (b)2. of this subsection shall pass a substance
22 abuse screening before being eligible for public assistance benefits,
23 except as provided in paragraph (f) of this subsection; and

24 7. A policy that the public assistance eligibility of any dependent children
25 in the household shall not be affected by a parent's or guardian's
26 positive substance abuse screening result, and a parent or guardian
27 may mitigate the impact of his or her positive substance abuse

1 screening result by designating another individual who meets the
2 following requirements to receive benefits for the minor child or
3 children:

4 a. The designated individual shall be an immediate family member
5 of the parent or child, or shall be otherwise approved by the
6 cabinet; and

7 b. The designated individual shall pass a substance abuse
8 screening if he or she has a felony or misdemeanor history of
9 substance abuse.

10 (f) 1. After testing positive for any substance described in paragraph (b)2. of
11 this subsection, each recipient shall enter a probationary period.

12 2. a. The probationary period shall begin with a sixty (60) day grace
13 period, during which the recipient shall enter a substance abuse
14 treatment program or risk losing benefits. After that initial sixty
15 (60) day grace period, a second substance abuse screening shall
16 be conducted.

17 b. If a recipient tests positive for a substance described in
18 paragraph (b)2. of this subsection on the second screening
19 conducted under subdivision a. of this subparagraph, then the
20 recipient shall, within fourteen (14) days, show evidence of
21 having entered a substance abuse treatment program. During
22 this fourteen (14) day period, benefits may be suspended until
23 proof of entry into a treatment program is provided. If benefits
24 are suspended, the benefits shall continue to be payable for the
25 benefit of any children in the recipient's home.

26 3. a. If the recipient does not test positive for any substance described
27 in paragraph (b)2. of this subsection on the second screening

1 conducted under subparagraph 2. of this paragraph, then the
2 recipient shall pass two (2) additional substance abuse
3 screenings conducted at random intervals during the next
4 twenty-four (24) months.

5 b. If the recipient does not test positive for any substance described
6 in paragraph (b)2. of this subsection on the subsequent
7 screenings conducted under subdivision a. of this subparagraph,
8 then the recipient's record shall be expunged and he or she shall
9 re-enter the general recipient population and continue receiving
10 substance abuse screenings only as otherwise provided in this
11 subsection.

12 4. a. If the recipient tests positive for any substance described in
13 paragraph (b)2. of this subsection during any of the subsequent
14 screenings conducted under subparagraph 3. of this paragraph,
15 then the recipient shall, within fourteen (14) days, show evidence
16 of having entered a substance abuse treatment program. During
17 this fourteen (14) day period, benefits may be suspended until
18 proof of entry into an approved program is provided. If benefits
19 are suspended, the benefits shall continue to be payable for the
20 benefit of any children in the recipient's home.

21 b. If the recipient does not begin treatment, he or she shall no
22 longer be eligible to receive benefits under this chapter, but the
23 benefits shall continue to be payable for the benefit of any
24 children in the recipient's home.

25 c. If the recipient does begin treatment, he or she shall continue to
26 be eligible to receive benefits. Sixty (60) days after completion of
27 the treatment program, the recipient shall pay for any other

1 substance abuse screening. If the recipient does not test positive
 2 for any substance described in paragraph (b)2. of this
 3 subsection, he or she shall pass two (2) additional substance
 4 abuse screenings conducted at random intervals over the next
 5 twenty-four (24) months. If the recipient does not test positive for
 6 any substance described in paragraph (b)2. of this subsection,
 7 then the recipient's record shall be expunged and he or she shall
 8 only be eligible for substance abuse screenings as otherwise
 9 provided in this subsection.

10 ➔Section 6. KRS 205.520 is amended to read as follows:

- 11 (1) KRS 205.510 to 205.630 shall be known as the "Medical Assistance Act."
- 12 (2) The General Assembly of the Commonwealth of Kentucky recognizes and declares
 13 that it is an essential function, duty, and responsibility of the state government to
 14 provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510
 15 to 205.630 to provide and preserve such care.
- 16 (3) Further, it is the policy of the Commonwealth to provide discretion to the secretary
 17 of the cabinet to take advantage of all federal funds that may be available for
 18 medical assistance after consideration of the impact of the federal requirements
 19 on the state, including any required state match and other budgetary
 20 considerations. To qualify for federal funds the secretary ~~for health and family~~
 21 ~~services~~ may by administrative regulation comply with any requirement that may
 22 be imposed or opportunity that may be presented by federal law. Nothing in KRS
 23 205.510 to 205.630, or any other statute, is intended to limit the secretary's power
 24 in this respect or to require the secretary to pursue available federal funds.
- 25 (4) It is the intention of the General Assembly to comply with the provisions of Title
 26 XIX of the Social Security Act which require that the Kentucky Medical Assistance
 27 Program recover from third parties which have a legal liability to pay for care and

1 services paid by the Kentucky Medical Assistance Program.

2 (5) The Kentucky Medical Assistance Program shall be the payor of last resort and its
3 right to recover under KRS 205.622 to 205.630 shall be superior to any right of
4 reimbursement, subrogation, or indemnity of any liable third party.

5 ➔Section 7. KRS 13B.020 is amended to read as follows:

6 (1) The provisions of this chapter shall apply to all administrative hearings conducted
7 by an agency, with the exception of those specifically exempted under this section.
8 The provisions of this chapter shall supersede any other provisions of the Kentucky
9 Revised Statutes and administrative regulations, unless exempted under this section,
10 to the extent these other provisions are duplicative or in conflict. This chapter
11 creates only procedural rights and shall not be construed to confer upon any person
12 a right to hearing not expressly provided by law.

13 (2) The provisions of this chapter shall not apply to:

14 (a) Investigations, hearings to determine probable cause, or any other type of
15 information gathering or fact finding activities;

16 (b) Public hearings required in KRS Chapter 13A for the promulgation of
17 administrative regulations;

18 (c) Any other public hearing conducted by an administrative agency which is
19 nonadjudicatory in nature and the primary purpose of which is to seek public
20 input on public policy making;

21 (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter
22 35;

23 (e) Administrative hearings conducted by the legislative and judicial branches of
24 state government;

25 (f) Administrative hearings conducted by any city, county, urban-county, charter
26 county, or special district contained in KRS Chapters 65 to 109, or any other
27 unit of local government operating strictly in a local jurisdictional capacity;

- 1 (g) Informal hearings which are part of a multilevel hearing process that affords
2 an administrative hearing at some point in the hearing process if the
3 procedures for informal hearings are approved and promulgated in accordance
4 with subsections (4) and (5) of this section;
- 5 (h) Limited exemptions granted for specific hearing provisions and denoted by
6 reference in the text of the applicable statutes or administrative regulations;
- 7 (i) Administrative hearings exempted pursuant to subsection (3) of this section;
- 8 (j) Administrative hearings exempted, in whole or in part, pursuant to
9 subsections (4) and (5) of this section; and
- 10 (k) Any administrative hearing which was commenced but not completed prior to
11 July 15, 1996.
- 12 (3) The following administrative hearings are exempt from application of this chapter
13 in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- 14 (a) Finance and Administration Cabinet
- 15 1. Higher Education Assistance Authority
- 16 a. Wage garnishment hearings conducted under authority of 20
17 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
- 18 b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A
19 and sec. 3716, and 34 C.F.R. sec. 30.33
- 20 2. Department of Revenue
- 21 a. Any licensing and bond revocation hearings conducted under the
22 authority of KRS 138.210 to 138.448 and 234.310 to 234.440
- 23 b. Any license revocation hearings under KRS 131.630 and 138.130
24 to 138.205
- 25 (b) Cabinet for Health and Family Services
- 26 1. Office of Health Policy
- 27 a. Certificate-of-need hearings and licensure conducted under

- 1 authority of KRS Chapter 216B
- 2 b. Licensure revocation hearings conducted under authority of KRS
- 3 Chapter 216B
- 4 2. Department for Community Based Services
- 5 a. Supervised placement revocation hearings conducted under
- 6 authority of KRS Chapter 630
- 7 3. Department for Income Support
- 8 a. Disability determination hearings conducted under authority of 20
- 9 C.F.R. sec. 404
- 10 **b. Food stamp and food distribution program, including**
- 11 **Supplemental Nutrition Assistance Program, hearings**
- 12 **conducted under authority of 7 C.F.R. sec. 271-285**
- 13 4. Department for Medicaid Services
- 14 a. Administrative appeal hearings following an external independent
- 15 third-party review of a Medicaid managed care organization's final
- 16 decision that denies, in whole or in part, a health care service to an
- 17 enrollee or a claim for reimbursement to the provider for a health
- 18 care service rendered by the provider to an enrollee of the
- 19 Medicaid managed care organization, conducted under authority of
- 20 KRS 205.646
- 21 (c) Justice and Public Safety Cabinet
- 22 1. Department of Kentucky State Police
- 23 a. Kentucky State Police Trial Board disciplinary hearings conducted
- 24 under authority of KRS Chapter 16
- 25 2. Department of Corrections
- 26 a. Parole Board hearings conducted under authority of KRS Chapter
- 27 439

- 1 b. Prison adjustment committee hearings conducted under authority
2 of KRS Chapter 197
- 3 c. Prison grievance committee hearings conducted under authority of
4 KRS Chapters 196 and 197
- 5 3. Department of Juvenile Justice
- 6 a. Supervised placement revocation hearings conducted under KRS
7 Chapter 635
- 8 (d) Energy and Environment Cabinet
- 9 1. Department for Natural Resources
- 10 a. Surface mining hearings conducted under authority of KRS
11 Chapter 350
- 12 b. Oil and gas hearings conducted under the authority of KRS
13 Chapter 353, except for those conducted by the Kentucky Oil and
14 Gas Conservation Commission pursuant to KRS 353.500 to
15 353.720
- 16 c. Explosives and blasting hearings conducted under the authority of
17 KRS 351.315 to 351.375
- 18 2. Department for Environmental Protection
- 19 a. Wild River hearings conducted under authority of KRS Chapter
20 146
- 21 b. Water resources hearings conducted under authority of KRS
22 Chapter 151
- 23 c. Water plant operator and water well driller hearings conducted
24 under authority of KRS Chapter 223
- 25 d. Environmental protection hearings conducted under authority of
26 KRS Chapter 224
- 27 e. Petroleum Storage Tank Environmental Assurance Fund hearings

- 1 under authority of KRS Chapter 224
- 2 3. Public Service Commission
- 3 a. Utility hearings conducted under authority of KRS Chapters 74,
- 4 278, and 279
- 5 (e) Labor Cabinet
- 6 1. Department of Workers' Claims
- 7 a. Workers' compensation hearings conducted under authority of
- 8 KRS Chapter 342
- 9 2. Kentucky Occupational Safety and Health Review Commission
- 10 a. Occupational safety and health hearings conducted under authority
- 11 of KRS Chapter 338
- 12 (f) Public Protection Cabinet
- 13 1. Kentucky Claims Commission
- 14 a. Liability hearings conducted under authority of KRS 49.020(1) and
- 15 49.040 to 49.180
- 16 (g) Education and Workforce Development Cabinet
- 17 1. Unemployment Insurance hearings conducted under authority of KRS
- 18 Chapter 341
- 19 (h) Secretary of State
- 20 1. Registry of Election Finance
- 21 a. Campaign finance hearings conducted under authority of KRS
- 22 Chapter 121
- 23 (i) State universities and colleges
- 24 1. Student suspension and expulsion hearings conducted under authority of
- 25 KRS Chapter 164
- 26 2. University presidents and faculty removal hearings conducted under
- 27 authority of KRS Chapter 164

- 1 3. Campus residency hearings conducted under authority of KRS Chapter
2 164
- 3 4. Family Education Rights to Privacy Act hearings conducted under
4 authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
- 5 5. Federal Health Care Quality Improvement Act of 1986 hearings
6 conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS
7 Chapter 311.
- 8 (4) Any administrative hearing, or portion thereof, may be certified as exempt by the
9 Attorney General based on the following criteria:
- 10 (a) The provisions of this chapter conflict with any provision of federal law or
11 regulation with which the agency must comply, or with any federal law or
12 regulation with which the agency must comply to permit the agency or
13 persons within the Commonwealth to receive federal tax benefits or federal
14 funds or other benefits;
- 15 (b) Conformity with the requirement of this chapter from which exemption is
16 sought would be so unreasonable or so impractical as to deny due process
17 because of undue delay in the conduct of administrative hearings; or
- 18 (c) The hearing procedures represent informal proceedings which are the
19 preliminary stages or the review stages of a multilevel hearing process, if the
20 provisions of this chapter or the provisions of a substantially equivalent
21 hearing procedure exempted under subsection (3) of this section are applied at
22 some level within the multilevel process.
- 23 (5) The Attorney General shall not exempt an agency from any requirement of this
24 chapter until the agency establishes alternative procedures by administrative
25 regulation which, insofar as practical, shall be consistent with the intent and purpose
26 of this chapter. When regulations for alternative procedures are submitted to the
27 Administrative Regulation Review Subcommittee, they shall be accompanied by the

1 request for exemption and the approval of exemption from the Attorney General.
2 The decision of the Attorney General, whether affirmative or negative, shall be
3 subject to judicial review in the Franklin Circuit Court within thirty (30) days of the
4 date of issuance. The court shall not overturn a decision of the Attorney General
5 unless the decision was arbitrary or capricious or contrary to law.

6 (6) Except to the extent precluded by another provision of law, a person may waive any
7 procedural right conferred upon that person by this chapter.

8 (7) The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings
9 held under KRS 11A.100 or 18A.095.