

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Community Based Services

Division of Protection and Permanency

(Amended After Comments)

922 KAR 1:340. Standards for independent living programs.

RELATES TO: KRS 2.015, ~~[194A.050, 194A.060,]~~199.011, ~~[199.430(3), 199.640, 199.650-199.670,]~~600.020, ~~[605.090(1),]~~610.110(6), 620.140(1)(d), 42 U.S.C. 677(a)(1)-(6)

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5)(a), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.640(5)(a) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies. KRS 605.150(1) permits the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. This administrative regulation establishes basic standards of care for independent living programs.

Section 1. Definitions.

- (1) "Aftercare" means services provided to the child after discharge from a child-placing agency.
- (2) "Cabinet" is defined by KRS 194A.005(1) and 600.020(7)~~[600.020(6)]~~.
- (3) "Child" means:
 - (a) A child as defined by KRS 199.011(4) and 600.020(2)~~[600.020(8)]~~;
 - (b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or
 - (c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.
- (4) "Child-placing agency" is defined by KRS 199.011(6)~~[199.011(7)]~~.
- (5) "Community resource" means a service or activity available in the community in addition to those provided by the child-placing agency in the care and treatment of a child.
- (6) "Independent living program" means a planned program that:
 - (a) Is licensed by the cabinet and designed to teach a child age eighteen (18)~~[sixteen (16)]~~ or older life skills that enable a child to become self-sufficient; and
 - (b) Meets the requirements established~~[specified]~~ in Section 3(1) of this administrative regulation.
- (7) "Independent living services" means services provided to an eligible child age fourteen (14) or older, as specified in 922 KAR 1:310, Section 15~~[16]~~, to assist the child in the natural progression from adolescence to adulthood~~[transition from dependency of childhood to living independently]~~.
- (8) "Individual treatment plan" or "ITP" means a plan of action developed and implemented to address the needs of a child.
- (9) "Social services" means a planned program of assistance to help an individual move toward a mutual adjustment of the individual and the individual's environment.

(10) ~~["Social services worker" means a person who meets the qualifications established within 922 KAR 1:310, Section 2.]~~

~~[(11)]~~ "Supervision plan" means a written supplement to a child's ITP, developed in accordance with 922 KAR 1:310, Section 6, that details a child-placing agency's roles and responsibilities to assure adequate supervision of a child in the agency's care, including those roles and responsibilities delegated to a foster home parent.

Section 2. Administration and Operation.

(1) Licensing procedures for an independent living program shall be:

- (a) In compliance with 922 KAR 1:310 for a private child-placing agency; and
- (b) Administered pursuant to 922 KAR 1:305.

(2) An independent living program shall meet the requirements of 922 KAR 1:310, Section ~~15~~~~[16]~~.

Section 3. Independent Living ~~*Program*~~~~*Programming*~~ and Services~~[Program]~~.

(1) A child-placing agency providing an independent living ~~*program*~~~~*programming*~~ shall be in compliance with 922 KAR 1:310, Section ~~15~~~~[16]~~, and staff shall:

(a) Conduct and document an assessment of the child's skills and knowledge:

- 1. Within fourteen (14) days of a child's placement with the child-placing agency and provision of services by the agency's independent living program; and
- 2. Using a tool to assess:
 - a. Money management and consumer awareness;
 - b. Job search skills;
 - c. Job retention skills;
 - d. Use of and access to:
 - (i) Community resources;
 - (ii) Housing; and
 - (iii) Transportation;
 - e. Educational planning;
 - f. Emergency and safety skills;
 - g. Legal knowledge;
 - h. Interpersonal skills, including communication skills;
 - i. Health care knowledge, including knowledge of nutrition;
 - j. Human development knowledge, including sexuality;
 - k. Management of food, including food preparation;
 - l. Ability to maintain personal appearance;
 - m. Housekeeping; and
 - n. Leisure activities;

(b) Develop and update quarterly a written ITP within thirty (30) calendar days of a child's placement in an independent living program, to include:

- 1. Educational, job training, housing, and independent living goals;
- 2. Objectives to accomplish a goal;
- 3. Methods of service delivery necessary to achieve a goal and an objective;
- 4. Person responsible for each activity;
- 5. Specific timeframes to achieve a goal and an objective;
- 6. Identification of a discharge plan;
- 7. Plan for aftercare services; and
- 8. Plan for services from community resources;

(c) Maintain written policies and procedures for the independent living program;

(d) Train and document the training provided to designated independent living staff within thirty (30) days of employment on:

- 1. Content of the independent living curriculum;
- 2. Use of the independent living materials;

3. Application of the assessment tool;~~{and}~~
4. Documentation methods used by the child-placing agency;
5. State and federal benefits available to current and former foster children;
6. State information web portals for foster children; and
7. Social media resources and regional independent living specialists available to foster children; and

(e) Maintain,~~and~~ teach, and support independent living in accordance with 42 U.S.C. 677(a), including:

1. Obtaining a high school diploma or equivalency and post-secondary education;
2. Obtaining vocational training;
3. Financial literacy, money management, and consumer awareness;
4. Career exploration and
- ~~{2.}~~ job search skills;
5. ~~{3.}~~ Job placement and retention skills;
6. ~~{4.}~~ Educational planning;
- ~~{5.}~~ Community resources;
7. ~~{6.}~~ Securing stable housing;
8. ~~{7.}~~ Transportation, including driving instruction;
9. ~~{8.}~~ Emergency and safety skills;
10. ~~{9.}~~ Legal skills;
11. ~~{10.}~~ Interpersonal skills, including communication skills;
12. ~~{11.}~~ Health care, including nutrition, smoking avoidance, and preventive health activities;
13. ~~{12.}~~ Human development, including sexuality and pregnancy prevention;
14. ~~{13.}~~ Food management, including food preparation;
15. ~~{14.}~~ Maintaining personal appearance;
16. ~~{15.}~~ Housekeeping;
17. ~~{16.}~~ Leisure activities;
18. ~~{17.}~~ Voting rights and registration;
19. ~~{18.}~~ Registration for selective service, if applicable;
20. ~~{19.}~~ Self-esteem;
21. ~~{20.}~~ Anger and stress management;
22. ~~{21.}~~ Problem-solving skills;~~{and}~~
23. ~~{22.}~~ Training and the opportunity to practice daily living skills;
24. Substance abuse prevention;
25. Developing and maintaining mental, emotional, and physical health;
26. Developing meaningful, permanent connections;
27. Educational planning;
28. Planning for the successful transition to adulthood ~~from out-of-care~~, including obtaining necessary documentation; and
29. ~~28.~~ Decision-making and planning skills.

(2) Child-placing agency staff ~~{A social services worker from an independent living program}~~ shall:

- (a) With the exception permitted by subsection (6) of this section, be responsible for a child at least~~{sixteen (16) to}~~ eighteen (18) years of age in an independent living program and provide supervision in accordance with the child's supervision plan;
- (b) Be available for twenty-four (24) hours, seven (7) days a week crisis support for a child in the independent living program, regardless of the child's age;
- (c) ~~{Have:}~~
 - ~~{1.}~~ ~~{Daily face-to-face contact with a child:}~~
 - ~~{a.}~~ ~~{Sixteen (16) to eighteen (18) years of age; and}~~
 - ~~{b.}~~ ~~{In the independent living program; or}~~

- ~~[(2.) [A minimum of one (1) face-to-face, in-home contact per week for a child]~~
~~[a.] [Eighteen (18) to twenty-one (21) years of age; and]~~
~~[b.] [In the independent living program;]~~
~~[(d)]~~ Conduct a visual and exploratory review of a child's living unit at least monthly, to include a review for:
1. Safety;
 2. Use of alcohol; and
 3. Illegal contraband;
- ~~[(d)]~~ ~~[(e)]~~ Maintain a caseload of no more than ten (10) children~~[, including independent living program.]~~
~~[1.] [Participants sixteen (16) to twenty-one (21) years of age; and]~~
~~[2.] [Participants' children assigned a Level of Care of III or higher in accordance with 922 KAR 1:360]; and~~
~~[(e)]~~ ~~[(f)]~~ Document annual compliance with fire and building codes for any living unit in which the agency places a child.
- (3)
- (a) A living unit for a child in an independent living program shall be occupied by only a child or children approved to occupy the living unit by the child-placing agency.
 - (b) Nonresidents shall be asked to vacate the living unit.
- (4) The child-placing agency shall assure and document that the living unit of a child in an independent living program:
- (a) Does not present a hazard to the health and safety of the child;
 - (b) Is well ventilated and heated; and
 - (c) Complies with state and local health requirements regarding water and sanitation.
- (5) The child-placing agency shall maintain documentation for each child concerning:
- (a) Assistance to the child in finding and keeping in touch with family, if possible;
 - (b) Physical and behavioral health services received by a child;
 - (c) Progress each child has made in the independent living program, including independent living services received;
 - (d) Progress in an educational program, including vocational education;
 - (e) An assessment of the child's readiness to live independently; and
 - (f) Staff's ~~[The social services worker's]~~ contacts with the child, including observation of the child's living arrangement.
- (6) A child that is seventeen (17) and *one-half (1/2)* ~~three-fourths (3/4)~~ years of age may be placed in a supervised independent living site *or scattered independent living student housing site* if an exception to subsection (2)(a) of this section is approved by the director of the Division for Protection and Permanency or designee.

Section 4. Independent Living Placement Types. A child-placing agency may provide independent living services to a child placed in:

- (1) A supervised independent living site, which shall include an apartment unit or house with or without roommates *that may have shared sleeping spaces, bathrooms, kitchens, or common areas* , if an agency staff member:
- (a) Is onsite with the child and available twenty-four (24) hours, seven (7) days a week;
 - (b) Distributes medication daily, if prescribed by a qualified medical provider;
 - (c) Has daily face-to-face in-person contact with the child; and
 - (d) Ensures that the child meets daily curfew requirements established by the agency;
- or
- (2) A scattered independent living site, which shall include an apartment unit , ~~for~~ house , *or student housing with or without roommates* that may have shared *sleeping spaces, bathrooms, kitchens, or common areas*, if an agency staff member has at least one
- (1) face-to-face, in-person contact per week with the child.

(42 Ky.R. 216; 1259; 1532; eff. 11-18-2015; 48 Ky.R. 2656; 49 Ky.R. 392, 593; eff. 9-28-2022.)

MARTA MIRANDA STRAUB, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: July 8, 2022

FILED WITH LRC: July 11, 2022 at 10:30 a.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:

The administrative regulation establishes the basic standards of care and service for child-caring and child-placing agencies who administer independent living programs.

(b) The necessity of this administrative regulation:

The administrative regulation is necessary to establish the requirements for the placement of a child in the custody of the cabinet with a child placing agency or child caring facility receiving independent living services and programming.

(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 standards for independent living programs and services provided to children in the custody of the cabinet.

(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 standards, services, and placement options available to children in out of home care at least eighteen (18) years of age and older who are in the custody of the cabinet.

(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 the administrative regulation establishes the standards for independent living and the requirements for an independent living scattered or supervised site, in which children at least eighteen (18) years of age who are in the custody of the cabinet may be placed by a private child-placing agency. The amendment also expands the independent living programming to include topics such as benefits available to former foster children, financial literacy, career exploration, and more. The administrative regulation is being further amended in response to comments submitted during the public comment period to provide clarifying language, reinsert language around educational planning, and make revisions to allow youth participating in an independent living program to live in student housing.

(b) The necessity of the amendment to this administrative regulation:

The amendment to the administrative regulation is necessary to establish the standards and requirements for independent living programming available to assist children in the successful transition from out-of-home care to independence upon their exit from the cabinet's custody.

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

The amendment of this administrative regulation conforms to the content of the authorizing statutes by establishing the standards of care for independent living programming for children at least eighteen (18) years of age who are in the custody of the cabinet.

(d) How the amendment will assist in the effective administration of the statutes:

This administrative regulation assists with the effective administration of the statutes through the establishment of the basic standards of care required of child placing agencies that provide independent living programming.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

There are currently 680 children in out-of-home care who are over the age of eighteen (18) who are in the custody of the cabinet and would be eligible for independent living programs. (TWS 058W, December 19, 2021)

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment:

Independent living programming will consist of a few more topics than it already does. Independent living programs are already meeting the majority of the requirements contained in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

The amendment to this administrative regulation requires no new cost to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Children in the custody of the cabinet who are eighteen years of age and older will benefit from more highly developed independent living programming to assist in the successful transition from out-of-home care to independence.

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

(a) Initially:

There is no estimated increase in costs as the cabinet currently provides out-of-home care for children over the age of eighteen (18) who are in the custody of the cabinet.

(b) On a continuing basis:

There is no estimated increase in costs to the cabinet.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The sources of funding include federal Title IV-E (of the Social Security Act) foster care maintenance and General Funds.

(7) 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 anticipated to be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applied, because this administrative regulation will be implemented in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

42 U.S.C. 677(a)(1)-(6)

(2) State compliance standards.

KRS 194A.050(1), 199.640(5)(a), 605.150(1)

(3) Minimum or uniform standards contained in the federal mandate.

42 U.S.C. 677(a)(1)-(6)

(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 not impose stricter requirement, or additional or different responsibilities or requirements, 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 a stricter standard, or additional or different responsibilities or requirements.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Cabinet for Health and Family Services, specifically the Department for Community Based Services (DCBS), is impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 194A.050(1), 199.640(5)(a), 605.150(1), 42 U.S.C. 677(a)(1)-(6)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will generate no new revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will generate no new revenue.

(c) How much will it cost to administer this program for the first year?

The amendment to this administrative regulation is not projected to have a new fiscal impact on the administrative body.

(d) How much will it cost to administer this program for subsequent years?

The amendment to this administrative regulation is not projected to have a new fiscal impact on the administrative body.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This amendment provides more support and more placement options for youth participating in independent living programs. Cost savings are not generated by this administrative regulation.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

There are no cost savings associated with this amendment.

(c) How much will it cost the regulated entities for the first year?

Independent living programs are already generally meeting the requirements contained in this administrative regulation. This amendment only includes additional topics to be trained and taught and provides for more placement options for youth participating in programs.

(d) How much will it cost the regulated entities for subsequent years?

Ongoing costs will be minimal and only relate to additional topics to be taught to participating youth and generally providers are already doing this. This amendment provides programs with additional placement options for youth.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact. The cost impact will be minimal and will have a positive effect on youth in the state's custody.