

STATEMENT OF EMERGENCY

503 KAR 1:140E.

An emergency regulation, pursuant to KRS 13A.190(1)(a)(1), is necessary to comply with Section 1 of House Bill (HB) 380, enacted during the 2023 Regular Session, which creates a new section of KRS Chapter 15 that is codified as 15.408. Specifically, Section 1 of HB 380 requires KLEC to allow individuals to attend basic training courses who are at least twenty years old and who will be twenty-one years old at the time they become certified as peace officers. House Bill 380 becomes effective on June 29, 2023. In accordance with the new law, this emergency regulation revises two forms used by the Kentucky Law Enforcement Council ("KLEC"): "KLEC Form A – Testing Registration-Attesting to Minimum Standards" and "KLEC Form D – All Standards Met", which are incorporated by reference in 503 KAR 1:140, Sec. 14(1). An ordinary administrative regulation will not go into effect by June 29, 2023. Therefore, this emergency administrative regulation is necessary for KLEC to comply with statutory mandates. This administrative regulation will be replaced by an ordinary administrative regulation that is being filed with the emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation. An emergency administrative regulation governing the same subject matter has not been filed within the previous nine months.

ANDY BESHEAR, Governor

JOHN MOBERLY, Executive Director

JUSTICE AND PUBLIC SAFETY CABINET
Kentucky Law Enforcement Council
(Emergency Amendment)

503 KAR 1:140E. Peace officer, telecommunicator, and court security officer professional standards.

RELATES TO: KRS Chapter 13B, 15.330(1)(f), 15.330(1)(h), 15.380, 15.382, 15.384(1), 15.392, 15.394(1), 15.396(1), 15.3971, 15.400(1), 15.408, 15.440, 15.540, 15.565, 15.580

STATUTORY AUTHORITY: KRS 15.330(1)(f), 15.330(1)(h), 15.382, 15.408, 15.440, 15.590

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.330(1)(f) and (h) and 15.590 authorize the Kentucky Law Enforcement Council to promulgate reasonable administrative regulations to accomplish the purposes of KRS 15.310 to 15.404 and to approve law enforcement officers, telecommunicators, and other persons having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.592. KRS 15.440 authorizes the council to promulgate administrative regulations for approval of basic training credit for out-of-state basic training and work experience. This administrative regulation establishes the guidelines and procedures necessary to implement and administer peace officer, telecommunicator, and court security officer certification.

Section 1. Approval of Agency's Validated Job Task Analysis and Associated Agency Testing.

(1) Application. If an agency desires to use its own job task analysis and any associated agency testing, the agency shall submit to the KLEC office completed KLEC Forms J and Q along with a copy of the proposed job task analysis. The agency shall supply:

- (a) The name of the entity that completed the analysis;
- (b) The date on which the analysis was completed;
- (c) A curricula vitae, resume, or company profile of the entity that completed the analysis; and
- (d) A listing of all job task analyses previously completed by the person or entity, including the dates of the analyses.

(2) Criteria for assessment. The submitted job task analysis shall be assessed based upon the following criteria:

- (a) Credentials and history of the entity conducting the analysis.
 1. Education, with a preference given to degrees in law enforcement, statistics, or a related area.
 2. Work experience, with a preference given to emphasis in law enforcement, statistics, or a related area.
 3. Number and quality of job task analyses completed.
- (b) Methodological approach.
 1. Reasonable, standardized format of the study and the report.
 2. Relative reliability and validity of the study's sampling techniques and practice.
 3. Other considerations that reflect sound practice of the scientific method.
 4. Specificity of the analysis. The job task analysis shall establish minimum entry qualifications, specific training requirements, and description of duties of officers.

(3) Initial review.

(a) Within five (5) business days of receipt of the application, the KLEC office shall notify the agency that:

1. The application has been received and is complete; or
2. The application is incomplete. The notice that an application is incomplete shall identify the specific information to be supplemented to process the application. The

agency shall submit the necessary information within ten (10) business days of the agency's receipt of the notice of insufficiency. If the agency fails to submit the supplementary information within the specified time period, the application shall be considered abandoned and the agency shall resubmit an application for consideration of its job task analysis and associated agency testing.

(b) The KLEC office recommendation. Within thirty (30) days of receipt of the completed application, the KLEC office shall forward the application to KLEC along with a recommendation to approve or reject the job task analysis and associated agency tests and the specific reasons supporting a recommendation to reject.

(c) KLEC review. The KLEC Professional Standards Committee shall review the application and recommendation of the KLEC office and forward its recommendation to KLEC for final review. Within sixty (60) days of their receipt of the application, KLEC shall issue written notice to the agency indicating whether the application has been approved or found to be insufficient or erroneous.

(d) If an application is found to be insufficient or erroneous, the KLEC shall notify the agency of:

1. The reasons for the finding; and
2. The requirement that the council file a declaratory action in accordance with KRS 15.394(1).

Section 2. Agency Testing Procedures.

(1) Each agency participating in certification shall submit a completed KLEC Form Q or KLEC Form tele-Q to the KLEC office prior to any applicant testing. The KLEC office shall be notified of any changes in the Form Q or KLEC Form tele-Q within ten (10) days.

(2) Initial review. Within fifteen (15) business days of receipt of KLEC Form Q, the KLEC office shall notify the agency that the form:

(a) Has been received and is complete; or

(b) Is incomplete. The notice that an application is incomplete shall identify the specific information to be supplemented to process the form. The agency shall submit the necessary information within ten (10) business days of the agency's receipt of the notice of insufficiency. Applicants shall not be tested or certified by KLEC until the form is complete.

(3) The KLEC office review of requests for agency testing. Within thirty (30) days of receipt of the completed form, the KLEC office shall review requests for agency testing from those agencies without a validated job task analysis to determine if the proposed tests are consistent with the minimum standards for KLEC testing as established in Section 4 of this administrative regulation. The KLEC office shall notify the agency if the proposed testing is acceptable. If the KLEC office determines that the minimum standards are not met, it shall forward the form to KLEC along with the specific reasons supporting a recommendation to reject the agency testing.

(4) KLEC Review. The KLEC Professional Standards Committee shall review the form and the recommendation of the KLEC office and forward its recommendation to KLEC for final review. Within sixty (60) days of receipt of the form, KLEC shall issue written notice to the agency indicating whether the request for agency testing has been approved or rejected and the specific reasons supporting the rejection.

(5)

(a) An agency may appeal a decision made by KLEC to reject an agency test by filing a written notice of appeal:

1. With the Secretary of the Justice and Public Safety Cabinet; and
2. Within thirty (30) days of receipt of the notice of rejection.

(b) The notice of appeal shall be submitted:

1. In writing; and
 2. With a copy of the notice of rejection of agency testing attached.
- (c) A copy of the notice of appeal shall also be mailed to the KLEC office by certified mail.
- (d) The Secretary of the Justice and Public Safety Cabinet shall schedule a hearing within thirty (30) days of receipt of the notice of appeal.
- (e) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 3. Certification of peace officers, telecommunicators, and court security officers.

- (1) Officers exempted from certification requirements pursuant to KRS 15.380(5) who are requesting certification shall submit KLEC Form E to the KLEC office.
- (2) State peace officers employed pursuant to KRS Chapter 18A who have had certification requirements adopted pursuant to KRS 15.380(2) shall submit KLEC Form E to the KLEC office.
- (3) An agency may request that peace officers identified in KRS 15.380(4), who have completed law enforcement basic training, and part-time telecommunicators, who have completed the Telecommunications Academy, participate in certification by submitting KLEC Form E to the KLEC office.
- (4) Peace officers, telecommunicators, and court security officers entitled to certified status pursuant to the grandfather provision of KRS 15.400(1), 15.3971, 15.560, or 15.565 shall submit KLEC Form C.

Section 4. Suitability Minimum Requirements: The minimum requirements and procedures established for KLEC testing by this section shall be followed.

- (1) The background investigation as specified in KRS 15.382(12) and 15.3971(1)(k) shall consist of the following minimum requirements, using the KLEC Form H-1 Background Investigation and personal history questionnaire.
 - (a) Biographical history;
 - (b) Family history;
 - (c) Education;
 - (d) Employment history;
 - (e) Interview with the applicant's references;
 - (f) Criminal history including domestic violence protective orders; and
 - (g) Credit history.
- (2) Fingerprinting. An applicant shall be fingerprinted and a criminal background check shall be conducted as specified in KRS 15.382(5), 15.3971(1)(e), and 15.540(1)(c) through the procedure established by this subsection.
 - (a) The applicant shall be fingerprinted by the Kentucky State Police, who shall input the fingerprints into the AFIS System and complete a state records check. The fingerprints shall also be sent to the FBI for a records check.
 - (b) The KSP shall forward the results of state and FBI records check to the employing agency.
 - (c) Final certification shall not be issued until results consistent with certification requirements and acceptable to the agency are received from the FBI.
 - (d) The agency may employ the peace officer, telecommunicator, or court security officer contingent upon the pending FBI results.
- (3) Psychological screening, as specified in KRS 15.382(15), 15.3971(1)(m), and 15.540(1)(d), shall consist of the minimum requirements established by this subsection.
 - (a) Screening shall measure a broad spectrum of abilities which are relevant to job related duties, including:
 1. Cognitive abilities;
 2. Personality characteristics; and

3. Related constructs, including:

- a. Integrity; and
- b. Conscientiousness.

(b) Screening shall contain a minimum of two (2) independent and objectively scored psychometric measures which shall be constructed and validated in accordance with the Standards for Educational and Psychological Testing, American Educational Research Association, American Psychological Association, National Council on Measurement in Education, Joint Committee on Standards for Educational and Psychological Testing, 2014.

(c)

1. Assessment results and predictions shall include a recommendation and summary statement regarding the applicant's overall suitability for employment as a peace officer, telecommunicator, or court security officer;

2. The summary statement shall classify applicants as:

- a. Essentially suitable;
- b. May be unsuitable; or
- c. Borderline suitability; and

3. If an applicant is classified as borderline suitability or may be unsuitable, the report shall contain specific concerns and negative indicators for investigation and reconciliation by the employing agency.

(d) Screening shall be administered in accordance with the Standards for Educational and Psychological Testing, American Educational Research Association, American Psychological Association, National Council on Measurement in Education, Joint Committee on Standards for Educational and Psychological Testing, 2014.

(4) Physical ability testing as specified in KRS 15.382(16) shall consist of the minimum requirements established by this subsection.

(a) Precertification status.

1. To obtain precertification status under KRS 15.386(1), the applicant shall successfully complete each of the events in the following order as instructed and evaluated by KLEC personnel who shall administer the test in conformity with the KLEC Physical Fitness Testing Protocols:

- a. Bench press;
- b. Sit-ups;
- c. 300 meter run;
- d. Push-ups; and
- e. One and five-tenths (1.5) mile run.

2. An applicant shall pass the physical ability test for precertification status if he or she achieves a cumulative score of fifty (50) points or more, based upon the following scoring of the physical training events listed in subparagraph 1 of this paragraph:

a. Bench press, based upon a percentage of the recruit's body weight:

- (i) 9 points - Recruit shall bench press at least fifty-five and three-tenths (55.3) percent of body weight;
- (ii) 9.5 points - Recruit shall bench press at least fifty-nine and seven-tenths (59.7) percent of body weight;
- (iii) 10 points - Recruit shall bench press at least sixty-four (64) percent of body weight;
- (iv) 10.5 points - Recruit shall bench press at least sixty-eight and five-tenths (68.5) percent of body weight; and
- (v) 11 points - Recruit shall bench press at least seventy-three (73) percent or more of body weight;

b. Sit-ups:

- (i) 9 points - Recruit shall complete at least thirteen (13) repetitions in one (1) minute;
 - (ii) 9.5 points - Recruit shall complete at least sixteen (16) repetitions in one (1) minute;
 - (iii) 10 points - Recruit shall complete at least eighteen (18) repetitions in one (1) minute; and
 - (iv) 11 points - Recruit shall complete nineteen (19) repetitions or more in one (1) minute;
- c. 300 meter run:
 - (i) 9 points - Recruit shall complete in sixty-eight (68) seconds or less;
 - (ii) 9.5 points - Recruit shall complete in sixty-seven (67) seconds or less;
 - (iii) 10 points - Recruit shall complete in sixty-five (65) seconds; and
 - (iv) 11 points - Recruit shall complete in less than sixty-five (65) seconds;
- d. Push-ups:
 - (i) 9 points - Recruit shall complete at least fourteen (14) repetitions in two (2) minutes;
 - (ii) 9.5 points - Recruit shall complete at least seventeen (17) repetitions in two (2) minutes;
 - (iii) 10 points - Recruit shall complete at least twenty (20) repetitions in two (2) minutes;
 - (iv) 10.5 points - Recruit shall complete at least twenty-three (23) repetitions in two (2) minutes; and
 - (v) 11 points - Recruit shall complete twenty-five (25) repetitions or more in two (2) minutes; and
- e. One and five-tenths (1.5) mile run:
 - (i) 9 points - Recruit shall complete in 1,076 seconds (17:56) or less;
 - (ii) 9.5 points - Recruit shall complete in 1,054 seconds (17:34) or less;
 - (iii) 10 points - Recruit shall complete in 1,032 seconds (17:12) or less;
 - (iv) 10.5 points - Recruit shall complete in at least 1,004 seconds (16:44) or less; and
 - (v) 11 points - Recruit shall complete in 975 seconds (16:15) or less.
- 3. An applicant shall not be awarded more than eleven (11) points in any one (1) of the five (5) physical ability events.
- 4. An applicant shall fail the physical ability test for precertification status if he or she does not achieve:
 - a. A cumulative score of at least fifty (50) points for all five (5) events; and
 - b. At least nine (9) points on each physical training event.
- 5. At the sole discretion of the hiring agency, an applicant who fails to meet the lowest performance level in a test event, thus earning a zero point value for that event, shall be granted a retest opportunity in that event without having to retest in the other events for which a point value was obtained, subject to the conditions established by this subparagraph.
 - a. A retest shall not be granted unless the maximum value of eleven (11) points would allow the applicant to meet the required cumulative fifty (50) point minimum.
 - b. A retest shall not occur any sooner than forty-eight (48) hours or any later than sixty (60) days from the date of the initial test attempt.
- 6. If an applicant obtains a point value for each event, but does not obtain a cumulative score of at least fifty (50) points, the applicant may attempt the test battery again, in its entirety. This shall be considered a second test administration and not a retest.

7. An applicant may participate in the physical ability test for precertification status in its entirety, four (4) times in a one (1) year period, which shall be calculated from the first date of testing.
8. An applicant may participate in one (1) physical ability retest for each physical ability test taken for precertification status.
- (b) Certification status.
 1. To obtain certification status under KRS 15.386(2), the applicant shall successfully complete each of the following physical ability requirements within ten (10) days of graduation from law enforcement basic training, which shall be administered in the same order and in conformity with the KLEC Physical Fitness Testing Protocols:
 - a. Bench press. One (1) repetition of maximum (RM) bench press equal to seventy-three (73) percent of the applicant's body weight;
 - b. Sit-ups. Nineteen (19) sit-ups in one (1) minute;
 - c. 300 meter run in less than sixty-five (65) seconds;
 - d. Push-ups. Twenty-five (25) push-ups; and
 - e. One and five-tenths (1.5) mile run in sixteen (16) minutes, fifteen (15) seconds.
 2. If an applicant passes all events when participating in the physical ability test in its entirety, the applicant shall have met the physical ability minimum requirements for certification status.
 3. Retest. If an applicant fails to pass all events when participating in the physical ability test for certification status during the training graduation test:
 - a. The applicant shall not retest in the failed events earlier than forty-eight (48) hours after the date the test is originally administered;
 - b. All failed events shall be retested on the same date; and
 - c. If the applicant passes all previously failed events on the date of the retest, the applicant shall have met the physical ability test requirements for certification status.
- (5) Medical screening as specified in KRS 15.382(10) shall consist of the minimum requirements established by this subsection.
 - (a) The applicant shall complete KLEC Form G-2, Medical History Statement, which, along with KLEC Form G-3, Medical Screening Guidelines Implementation Manual, shall be provided to the physician, nurse practitioner, or physician's assistant, duly licensed to practice in the Commonwealth of Kentucky, who shall examine the applicant in conformity with the guidelines.
 - (b) The agency shall provide the examining physician, nurse practitioner, or physician's assistant with a copy of the KLEC Form T-1a, Physician's Medical Release Form.
 - (c) The physician, nurse practitioner, or physician's assistant shall complete KLEC Form G-1, Medical Examination Report, and forward it to the employing agency.
- (6) Drug screening as specified in KRS 15.382(11), 15.3971(1)(j), and 15.540(1)(f) shall consist of the minimum requirements established by this subsection.
 - (a) The applicant shall execute KLEC Form K-1 and submit a urine sample that shall be screened and if necessary confirmed using the guidelines as outlined in the Mandatory Guidelines for Federal Workplace Drug Testing Programs, 82 Fed. Reg. 7920-1 (Jan. 23, 2017). The screening and confirmatory cutoff concentrations are as follows:

SCREENING

Marijuana metabolites	50 ng/mL
Cocaine metabolite (Benzoylecgonine)	150 ng/mL
Codeine / Morphine	2,000 ng/mL

Hydrocodone / Hydromorphone	300 ng/mL
Oxycodone / Oxymorphone	100 ng/mL
6-Acetylmorphine	10 ng/mL
Phencyclidine (PCP)	25 ng/mL
Amphetamine / Methamphetamine	500 ng/mL
MDMA / MDA	500 ng/mL
CONFIRMATION	
THC/THCA	15 ng/mL
Benzoylecgonine	100 ng/mL
Codeine	2,000 ng/mL
Morphine	2,000 ng/mL
Hydrocodone	100 ng/mL
Hydromorphone	100 ng/mL
Oxycodone	100 ng/mL
Oxymorphone	100 ng/mL
6-Acetylmorphine	10 ng/mL
Phencyclidine (PCP)	25 ng/mL
Amphetamine	250 ng/mL
Methamphetamine	250 ng/mL
MDMA	250 ng/mL
MDA	250 ng/mL

(b) The integrity of the urine sample shall be documented on KLEC Form K-2, Drug Screening through Urinalysis Chain of Custody.

(7) For the polygraph examination as specified in KRS 15.382(17), 15.3971(1)(n), and 15.540(1)(e), the applicant shall complete KLEC Form I-1, Consent for Pre-employment Polygraph Examination, and KLEC Form I-2, Pre-employment Polygraph Questionnaire, which shall be provided to the polygraph examiner, duly licensed in the commonwealth of Kentucky, who shall perform a polygraph examination of the applicant.

(8) The agency shall ensure that the applicant receives and has read KLEC Form L-1, Code of Ethics and KLEC Form L-2, Canon of Ethics.

(9) High school diploma.

(a) The high school graduate requirement of KRS 15.382(3), 15.3971(1)(c), or 15.540(1)(b) shall be met by:

1. Submission of a copy of a diploma or transcript from a public high school; or
2. Submission of a diploma or transcript from a private high school that:
 - a. Is certified by or recognized by the Kentucky Department of Education; or
 - b. Has complied with all provisions of Kentucky law relating to private or other non-public secondary schools as applicable, including days and hours of attendance and course curriculum. The applicant shall also submit a completed Applicant Education Verification form.

(b) A document purporting to be a high school or college diploma and obtained through the internet or by mail order shall not satisfy the requirement of KRS 15.382(3), 15.3971(1)(c), or 15.540(1)(b).

Section 5. KLEC Administered Testing Procedures.

(1) An applicant shall execute all releases required for KLEC testing, including:

(a) KLEC Form I-1 - Consent for Pre-employment Polygraph Examination;

- (b) KLEC Form K-1 - Drug Screening through Urinalysis Applicant Consent Form;
 - (c) KLEC Form T-1 - Medical Release - Phase I Testing; and
 - (d) KLEC Form T-2 - Liability Waiver - Phase I Testing.
- (2) Testing schedule.
- (a) The KLEC office shall publish online or otherwise make available to all law enforcement and telecommunications agencies in the commonwealth a list of sites and dates for KLEC administered testing.
 - (b) Testing sites shall be statewide and accommodations shall be made where reasonable to ensure testing sites are accessible based upon need.
 - (c) Advance notice of the schedule shall be made public prior to the testing.
 - (d) The KLEC office shall reschedule testing if cancellation is necessary due to inclement weather or other unforeseen circumstances. Emergency testing shall be made available if possible at the Department of Criminal Justice Training as needed.
- (3) Registration for KLEC administered testing. The KLEC office shall receive KLEC Form A from the employing agency at least five (5) business days prior to testing.
- (a) Applicants shall provide current photographic identification when the testing is administered.
 - (b) The KLEC office shall receive the completed polygraph questionnaire KLEC Form I-2 when the testing is administered.

Section 6. Test Reporting by KLEC.

- (1) Results of tests provided by or through the KLEC office shall be forwarded to the employing agency head.
- (2) The agency shall certify that the applicant has met all suitability requirements by submitting KLEC Form D. The information from the completed form shall be provided to DOCJT for Kentucky Law Enforcement Foundation Program Fund and training authorization purposes.
- (3) Length of test result validity.
 - (a) Physical ability for precertification status results shall be considered current and valid one (1) year from the passing date of the test.
 - (b) Suitability screening results shall be considered current and valid for one (1) year from the date of the screening. If the applicant experiences a significant life change during the one (1) year period, for example, a divorce or the death of a close family member or friend, the applicant shall notify the employing agency who shall schedule a new suitability screening for the applicant.
 - (c) Polygraph examination results shall be considered current and valid for a period of one (1) year from the date of the examination. If the applicant experiences a significant life change during the one (1) year period, for example, a divorce or the death of a close family member or friend, the applicant shall notify the employing agency who shall schedule a new polygraph examination for the applicant.
 - (d) Drug screening results shall be considered current and valid only for the agency that requested or performed the test and only during that employment process. An applicant who leaves and reenters the testing process for preselection screening shall submit to another drug screening.
- (4) Updating test results. The employing agency shall update test results if necessary by submitting KLEC Form D to the KLEC office.
- (5) Agency access to prior test results.
 - (a) It shall be at the applicant and individual agency's discretion to allow another employing agency access and use of the initial agency's certification testing, which is still current and valid.
 - (b) If agencies enter into an agreement with the written permission of the applicant, the new employing agency shall receive the medical, suitability, and polygraph results

directly from the agency that initially requested testing of the applicant.

(c) Costs incurred for duplicate KLEC test results shall be the responsibility of the agency obtaining the results.

Section 7. Test Reporting by Agency.

(1) An agency that performs physical ability testing based upon the requirements in Section 4 of this administrative regulation shall report all test results by submitting a POPS Form PT-1, Physical Agility Test Session Report, to the KLEC within ten (10) days of administering the test.

(2) An agency that performs physical ability testing based upon its own validated job task analysis in accordance with KRS 15.382(16), shall report the test results of every applicant tested in writing to the KLEC office within ten (10) days of administering the test.

(3) Physical ability test results shall be reported to the KLEC office regardless of whether the applicant:

(a) Passes or fails the test; or

(b) Performs or completes every component of the physical ability test.

Section 8. KLEC Administered Testing Costs.

(1) The employing agency shall reimburse KLEC within sixty (60) days of receipt of the invoice for the cost of KLEC administered testing provided at the agency's request as follows:

(a) Sixty-five (65) dollars for each psychological screening;

(b) \$100 for each polygraph examination; and

(c) Sixteen (16) dollars for each drug screening.

(2) If an agency has scheduled KLEC testing for an applicant who fails to appear or complete the testing, the agency shall be responsible for fifty (50) percent of the cost of the test had it been completed.

(3) Financial hardship.

(a) Application. An employing agency may apply for a waiver of costs for KLEC testing pursuant to KRS 15.384(1) by demonstrating undue financial hardship. The agency shall submit to the KLEC office:

1. The actual approved budget of the governmental unit for the current and the preceding year;

2. The number of certification applicants for the current and preceding year;

3. The actual revenue receipts of the governmental unit for the current and the preceding year; and

4. A detailed explanation of why the governmental unit cannot meet the cost of providing the testing, including the reason that adequate funding was not budgeted to cover the cost of testing.

(b) Initial review. Within five (5) business days of receipt of the application, the KLEC office shall mail a notification to the agency that:

1. The application has been received and is complete; or

2. The application is incomplete and shall identify the specific information to be supplemented to process the application. The KLEC office shall receive the necessary information within ten (10) business days of the agency's receipt of the notice of insufficiency. If the agency fails to submit the supplementary information within the specified time period, the application shall be considered abandoned and the agency shall resubmit an application for financial hardship.

(c) Recommendation. Within thirty (30) days of their receipt of the completed application, the KLEC office shall forward the application to KLEC along with a recommendation to approve or reject the application for financial hardship and the specific reasons supporting a recommendation to reject.

(d) KLEC review.

1. The KLEC Committee on Professional Standards shall review the application and the recommendation of the KLEC office and forward their recommendation to KLEC for final review.
2. Within sixty (60) days of their receipt of the application, KLEC shall issue written notice to the agency indicating whether the application has been approved or rejected and shall provide the specific reasons supporting the rejection.

(e) Appeal.

1. An agency may appeal a decision made by KLEC to reject an agency's application for financial hardship by filing a written notice of appeal to the Secretary of the Justice and Public Safety Cabinet.
2. The notice shall be filed within thirty (30) days of receipt of the notice of rejection.
3. The notice of appeal shall be submitted in writing with a copy of the notice of rejection of financial hardship attached.
4. A copy of the notice of appeal shall be delivered to the KLEC office by certified mail.
5. The Secretary of the Justice and Public Safety Cabinet shall render an opinion within sixty (60) days of receipt of the notice of appeal.

(4) If an agency knowingly employs or appoints a person who fails to meet minimum certification standards pursuant to KRS 15.396(1) the KLEC office shall immediately notify DOCJT.

Section 9. Employment Changes.

- (1) Pursuant to KRS 15.392 and 15.580 if a certified peace officer, telecommunicator, or court security officer leaves an agency, the agency shall submit KLEC Form F.
- (2) If the peace officer, telecommunicator, or court security officer is reemployed by another agency the employing agency shall submit KLEC Form F within five (5) business days of the employment or appointment. Additionally, the agency shall submit KLEC Form D-1 for returning peace officers or court security officers.
- (3) Information from completed KLEC Forms F shall be provided to DOCJT for Kentucky Law Enforcement Foundation Program Fund and training authorization purposes.

Section 10. Out-of-state, Military, and Federal Law Enforcement and Telecommunications Basic Training.

(1) An applicant to a Kentucky law enforcement or telecommunications agency who has graduated from a basic training course or academy in another state may be certified by the KLEC if:

- (a) The basic training course or academy was equal to or exceeded the course content and number of hours required for Kentucky peace officers, telecommunicators, or court security officers when the course was completed by the applicant, as determined by the executive director of the Office of Kentucky Law Enforcement Support;
- (b) The basic training course or academy is a single, stand-alone course;
- (c) The peace officer, telecommunicator, or court security officer has been employed in a full-time capacity in the state of graduation for a period of at least one (1) year before applying with the Kentucky agency; and
- (d) The peace officer completes the following courses presented by the Department of Criminal Justice Training within one (1) year of his or her hiring by the Kentucky law enforcement agency. For purposes of meeting the hourly requirement in paragraph (a) of this subsection, the number of hours of these courses shall be added to the number of hours taken in the out-of-state basic training course:

1. The twenty-four (24) hour legal update Penal Code course;

2. The sixteen (16) hour legal update constitutional procedure course;
 3. On-line Federal Emergency Management Agency ICS 100, ICS 200, and IS 700 courses (or current equivalent). A Certificate of Completion or official transcript shall satisfy this requirement; and
 4. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:
 - a. Basic officer skills;
 - b. Orientation for new police chiefs; or
 - c. Mandatory duties of the sheriff.
- (2) An applicant to a Kentucky law enforcement agency who has graduated from a basic training course or academy in another state may be certified by the KLEC if:
- (a) The basic training course or academy was at least 300 hours, but less than the number of hours required for Kentucky peace officers;
 - (b) The peace officer has been employed in a full-time capacity as a peace officer for three (3) or more years with at least one (1) year in the state in which he or she completed his or her basic training course or academy;
 - (c) The basic training course or academy is a single, stand-alone course; and
 - (d) The peace officer completes the courses as required in subsection (1)(d) of this section with the number of hours of these courses added to the number of hours taken in the out-of-state basic training course in subsection (2)(a) of this section.
- (3) An applicant to a Kentucky law enforcement or telecommunications agency who has graduated from a law enforcement or telecommunications basic training course or academy while serving in the United States military may be certified by the KLEC if:
- (a)
 1. The basic training course or academy corresponded with or exceeded the course content and number of hours required for Kentucky peace officers, telecommunicators, or court security officers at the time the course was completed by the applicant, as determined by the Executive Director of the Office of Kentucky Law Enforcement Support; or
 2. The basic training course or academy did not correspond with or exceed the course content and number of hours required for Kentucky peace officers, telecommunicators, or court security officers at the time the course was completed by the applicant, a basic training credit of fifty (50) hours for each year of his or her full-time peace officer service together with the basic training course hours shall be granted to allow compliance with the total hours required by KRS 15.440, 503 KAR 1:110, or another administrative regulation modifying the hours; and
 - (b) The basic training course or academy was a single, stand-alone course.
- (4) An applicant to a Kentucky law enforcement agency who has graduated from one (1) of the following Federal law enforcement basic training courses may be certified by the KLEC:
- (a) Federal Bureau of Investigation;
 - (b) Bureau of Alcohol, Tobacco, and Firearms;
 - (c) Drug Enforcement Administration; or
 - (d) United States Secret Service.
- (5) The KLEC shall not approve a basic training course or academy that consists of two (2) or more courses added together to meet the minimum number of basic training hours for a Kentucky peace officer, telecommunicator, or court security officer.
- (6) An agency may request certification for a peace officer who has completed an out-of-state law enforcement basic training by submitting for the applicant:
- (a) A certificate of completion or other official documentation showing completion of basic training;
 - (b) A transcript of classes for basic training with individual class hours specified; and

(c) A letter from an employing agency signed by the chief or a direct supervisor of the applicant certifying, or other official documentation showing, that the applicant was employed in a full-time capacity as a peace officer for:

1. At least one (1) year; or
2. Three (3) or more years with at least one (1) year in the state in which he or she completed his or her basic training course or academy.

(7) An applicant to a Kentucky law enforcement or telecommunications agency seeking certification under this section shall not be certified unless he or she has worked in a full-time capacity as a peace officer within five (5) years of applying for certification in Kentucky.

Section 11. Records.

(1) Records retention. The KLEC office shall retain all certification records in electronic or original medium consistent with the records retention schedule established by the Kentucky Department of Library and Archives, pursuant to 725 KAR 1:030.

(2) Security. The KLEC office and employing agencies shall maintain records in a manner to ensure their security. To properly maintain the confidentiality of certification records as required by KRS 15.400(3) and 15.540(2), a law enforcement or telecommunications agency shall keep all records relating to certification in a file separate from any personnel file maintained by the hiring authority.

(3) For KLEC audit purposes, an agency that has a separate human resources or personnel department may complete and maintain in the agency file a KLEC FORM POPS P, Certification of Peace Officer Professional Standards Testing Procedures, KLEC Form Q-3 – Drug Screening Approval, KLEC Form Q-4 – Polygraph Approval, and KLEC Form Q-5 – Suitability Screener Approval, indicating that the following testing procedures have been completed:

- (a) Polygraph;
- (b) Suitability screening;
- (c) Drug screen; and
- (d) Medical examination or history statement.

(4) Agencies shall retain all documentation pertaining to certification for five (5) years following the cessation of certification of the peace officer, telecommunicator, or court security officer regardless of where the certified peace officer, telecommunicator, or court security officer is employed in the commonwealth.

(5) An agency that knowingly discloses confidential information in violation of KRS 15.400(3) and 15.540(2) may be denied participation in KLEC polygraph examinations and psychological examinations.

Section 12. Applicant Conduct and Behavior.

(1) An applicant who has engaged in behavior constituting dishonesty, cheating, falsification of documents, or any other fraudulent behavior for the purpose of wrongfully receiving certification shall be removed from the testing process and, subject to an administrative hearing in accordance with KRS Chapter 13B, may be barred from further consideration for certification.

(2) Use of alcohol or other intoxicants.

(a) An applicant shall not possess, consume, or be under the influence of alcoholic beverages, controlled substances, or other intoxicating substances not therapeutically prescribed by a physician while participating in the testing process.

(b) An applicant shall advise the KLEC test administrator in writing of the use of a controlled substance or medication whether or not it has been prescribed by a physician.

(c) An applicant shall not participate in physical ability testing if:

1. The applicant has taken:

- a. A controlled substance as prescribed by a physician; or
 - b. Any other medication, whether prescribed or not; and
- 2. The applicant is under the influence of the controlled substance or medication to the extent that the applicant may be impaired or is a danger to self or others.
- (3) Termination of a dangerous or disruptive situation. If the conduct or condition of an applicant constitutes an immediate danger or an immediate threat of danger to self or others, or is disruptive of testing, or is an immediate threat to be disruptive of testing, a KLEC staff member may take all reasonable steps necessary to terminate the situation, including removal of the applicant from testing.
- (4) The KLEC shall notify the applicant and the employing agency within five (5) days following the removal stating that the applicant has been removed or barred from testing. The notice shall state the supporting reasons and circumstances of the removal and whether the agency may reschedule testing.

Section 13. Compliance.

- (1) Inspection. Test results, testing procedures, and all other certification documentation shall be retained by the agency and be available for inspection and audit at any time by agents authorized by KLEC.
- (2) KLEC may initiate an inspection and audit of an agency's certification documentation randomly to assure routine compliance or to investigate a specific complaint.
- (3) KLEC shall have access to the services of the DOCJT Compliance and Audit Section, as coordinated through the DOCJT Commissioner, to audit specific applicants and agencies to ensure compliance with certification requirements.
- (4) If during the course of an audit conducted by the DOCJT Compliance and Audit Section a violation of certification is detected, the DOCJT Compliance and Audit Section shall report the possible violation to KLEC.
- (5) Denial of participation in Kentucky Law Enforcement Foundation Program Fund (KLEFPF). If KLEC determines that an agency has knowingly employed or appointed a person who fails to meet minimum certification standards, KLEC shall immediately notify the administrator of KLEFPF.

Section 14. Issuance of Certification. All identification cards issued to a peace officer, telecommunicator, or court security officer verifying certification remain the property of KLEC and shall be returned to the KLEC office upon loss of certification.

Section 15. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Standards for Educational and Psychological Testing", American Educational Research Association, American Psychological Association, National Council on Measurement in Education, Joint Committee on Standards for Educational and Psychological Testing, 2014;
 - (b) "KLEC Form A - Testing Registration - Attesting to Minimum Standards", 2023;
 - (c) "KLEC Form C - Grandfather Information", 2021;
 - (d) "KLEC Form D - All Standards Met", 2023;
 - (e) "KLEC Form D-1 – All Standards Met – Inactive to Active Status", October 2022;
 - (f) "KLEC Form E - Request for Certification for Exempt Officers", March 1, 1999;
 - (g) "KLEC Form F - Status Update", 2021;
 - (h) "KLEC Form G-1 - Medical Examination Report", 2021;
 - (i) "KLEC Form G-2 - Medical History Statement", 2021;
 - (j) "KLEC Form G-3 - Medical Screening Guidelines Implementation Manual", 2021;
 - (k) "KLEC Form H-1 - Background Investigation", 2021;
 - (l) "KLEC Form I-1 - Consent for Pre-employment Polygraph Examination", 2021;
 - (m) "KLEC Form I-2 - Pre-employment Polygraph Questionnaire", 2021;

- (n) "KLEC Form J - JTA Submission", January 19, 1999;
 - (o) "KLEC Form K-1 - Drug Screening Through Urinalysis Applicant Consent Form", 2021;
 - (p) "KLEC Form K-2 - Drug Screening Through Urinalysis Chain of Custody Form", 2021;
 - (q) "KLEC Form L-1 - Code of Ethics", 2021;
 - (r) "KLEC Form L-2 - Canon of Ethics", 2021;
 - (s) "KLEC Form Q - Agency Submission Form", 2021;
 - (t) "KLEC Form Q-3 - Drug Screening Approval", 2021;
 - (u) "KLEC Form Q-4 - Polygraph Approval", 2021;
 - (v) "KLEC Form Q-5 – Suitability Screener Approval", 2021;
 - (w) "KLEC Form tele-Q - Agency Submission Form", 2021;
 - (x) "KLEC Form T-1 - Medical Release - Phase I Testing", 2021;
 - (y) "KLEC Form T-1a - Physician's Medical Release Form", 2021;
 - (z) "KLEC Form T-2 - Liability Waiver - Phase I Testing", 2021;
 - (aa) "POPS Form PT-1 - Physical Agility Test Session Report", 2021;
 - (bb) "POPS Form P - Certification of Peace Officer Professional Standards Testing Procedures", July 2004;
 - (cc) "KLEC Physical Fitness Testing Protocols", 2021; and
 - (dd) "KLEC Education Form - Applicant Education Verification", 2021.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Law Enforcement Council, 4449 Kit Carson Drive, Richmond, Kentucky 40475-3102, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the council's Web site at <https://klecs.ky.gov/>.
(Emergency 50 Ky.R. 331; eff. 6-27-2023; Replaced by ordinary, 50 Ky.R. 1272; eff. 3-5-2024.

JOHN MOBERLY, Executive Director

APPROVED BY AGENCY: June 26, 2023

FILED WITH LRC: June 27, 2023 at 9 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 22, 2023, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes 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 August 31, 2023. 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: Jonathan Gifford, Staff Attorney III, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.