

**EDUCATION AND LABOR CABINET**  
**Education Professional Standards Board**  
**(Amendment)**

**16 KAR 2:160. Probationary certificate for teachers of exceptional children.**

RELATES TO: KRS 161.020, 161.028, 161.030, 34 C.F.R. 300.156 (c)(2).

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board (EPSB). This administrative regulation establishes a plan for recruiting certified classroom teachers into positions for teachers of exceptional children.

Section 1. Definition. "Qualified teacher" means a teacher who holds the appropriate certification as a teacher of exceptional children unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.

Section 2.

(1) If a qualified teacher is not available for the position of teacher of exceptional children as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request a one (1) year probationary certificate be issued to a candidate who:

(a)  Holds a Kentucky teaching certificate; and

(b)  Is enrolled in an EPSB approved educator preparation program for the certification area for which application is being made [as provided in this administrative regulation.]

~~{(1)}~~

~~{(a)}~~

~~{1.} [A valid classroom certificate or an internship statement of eligibility for grades K-4, 1-8, P-5, 5-9, or 5-8 shall be a prerequisite for a one (1) year probationary certificate for learning and behavior disorders, grades P-12; for hearing impaired, grades P-12; and for visually impaired, grades P-12.]~~

~~{2.} [The applicant shall have enrolled in an educator preparation program, in accordance with 16 KAR Chapter 5, in the certification area for which application is being made, and shall have completed a minimum preparation of nine (9) semester hours of credit from the special education component of the approved curriculum.]~~

~~{(b)}~~

~~{1.} [A valid classroom teaching certificate or an internship statement of eligibility for grades 7-12, 8-12, all grades, or 9-12 shall be a prerequisite for a one (1) year probationary certificate for learning and behavior disorders, grades P-12; for the endorsement for learning and behavior disorders, grades 8-12; for hearing impaired, grades P-12; and for visually impaired, grades P-12.]~~

~~{2.} [The applicant shall have enrolled in an educator preparation program in the certification area for which application is being made, and shall have completed three (3) semester hours in the teaching of reading and a minimum preparation of nine (9) semester hours of credit from the special education component of the approved curriculum.]~~

~~{(c)}~~

~~{1.} [A valid classroom teaching certificate or an internship statement of eligibility for grades K-4, 1-8, 5-8, 7-12, P-5, 5-9, 8-12, all grades, or 9-12 shall be a~~

~~prerequisite for a one (1) year probationary certificate for teaching the moderately and severely disabled, grades P-12.]~~

~~[2.] [The applicant shall have enrolled in an educator preparation program for teaching the moderately and severely disabled and shall have completed nine (9) semester hours of credit from the special education component of the approved curriculum for teaching the moderately and severely disabled.]~~

~~[(d)]~~

~~[1.] [A certificate for teaching exceptional children, including interdisciplinary early childhood education, shall be a prerequisite for a one (1) year probationary certificate for teaching learning and behavior disorders, grades P-12; the endorsement for learning and behavior disorders, grades 8-12; hearing impaired, grades P-12; visually impaired, grades P-12; or moderately and severely disabled, grades P-12.]~~

~~[2.] [The applicant shall have enrolled in an educator preparation program in the certification area for which application is being made and shall have completed a minimum preparation of nine (9) semester hours of credit from the special education component of the approved curriculum.]~~

~~[(2)] [The applicant shall complete twelve (12) clock hours of training as required by the Office of Next-generation Learners, Division of Learning Services.]~~

~~[(3)]~~

~~[(a)] [The applicant shall complete an additional six (6) clock hours of training during the fall conference conducted by the Kentucky Department of Education, Division of Learning Services. A teacher employed after the fall conference shall complete these six (6) hours of training during the spring conference of the Council for Exceptional Children; or]~~

~~[(b)] [If the applicant is unable to attend either the fall conference or the spring conference, the applicant shall complete an additional six (6) clock hours of training conducted or approved by the Kentucky Department of Education, Division of Learning Services.]~~

~~[1.] [The applicant shall contact the Division of Learning Services to schedule the training.]~~

~~[2.] [The training shall be similar to the topics covered at the conferences.]~~

~~[(4)] [The Kentucky Department of Education shall report to the Education Professional Standards Board those probationary certified teachers of exceptional children who have not completed the training requirements established in subsections (2) and (3) of this section by June 30 of each year for the preceding school year.]~~

~~(2) [(5)] Application for a probationary certificate for a teacher of exceptional children shall be submitted to the EPSB and shall contain the following: [made on Form CA-19.]~~

~~(a) Verification from the employing superintendent that a qualified teacher was not available for the position;~~

~~(b) Evidence of employment in a Kentucky school district or regionally- or nationally- accredited nonpublic school in the content area or areas;~~

~~(c) Recommendation from the educator preparation for the grade level and specialization of the probationary certificate for a teacher of exceptional children; and~~

~~(d) Compliance with 16KAR 2:010, Section 3(1).~~

~~(3) The probationary certificate for a teacher of exceptional children shall be issued in accordance with the grade level and specialization as recommended by the educator preparation provider and valid for employment consistent with the area of certification being sought through the preparation program.~~

(1) A candidate shall be eligible for renewal of the probationary certificate for a teacher of exceptional children upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of the following requirements:

(a) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area or areas indicated on the initial certificate; and

(b) Recommendation from the educator preparation provider based on continued enrollment and progress towards the completion of the preparation program.

(2) The probationary certificate for teachers of exceptional children may be renewed a maximum of two (2) times.

~~Section 4. [Requirements for Renewal of a Probationary Certificate for Teachers of Exceptional Children.]~~

~~[(1)] [The first renewal of the probationary certificate for teachers of exceptional children shall be for one (1) year based upon:]~~

~~[(a)] [Evidence of employment in a Kentucky school district or nonpublic school as a teacher of exceptional children in the area indicated on the initial probationary certificate;]~~

~~[(b)] [Completion of at least six (6) semester hours or its equivalent toward the completion of the approved exceptional children educator preparation program; and]~~

~~[(c)] [Successful completion of the Kentucky Teacher Internship Program established in 16 KAR 7:010. A teacher who has successfully completed the Kentucky Teacher Internship Program prior to issuance of the initial probationary certificate or who is not required to complete the internship program under the requirements for out-of-state teachers established in KRS 161.030(5) shall not be required to complete the internship program again while serving on the probationary certificate.]~~

~~[(2)] [Subsequent one (1) year renewal of the probationary certificate for teachers of exceptional children shall require at least six (6) semester hours or its equivalent of additional credit toward completion of the approved exceptional children educator preparation program.]~~

~~[Section 5.]~~ Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of all program requirements for the approved exceptional children educator preparation program, including successful completion of all required assessments established in 16 KAR 6:010, a professional certificate for teaching exceptional children established in 16 KAR 2:010 and valid for five (5) years shall be issued.

~~Section 5. [Section 6.]~~ Program requirements for completion of the exceptional children educator preparation program while serving on the probationary certificate for teachers of exceptional children shall not include student teaching.

~~[Section 7.] [Incorporation by Reference.]~~

~~[(1)] ["Form CA-19", 08/15, is incorporated by reference.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

Withdrawn by agency, 9-23-2024.

*JUSTIN MITCHELL, Board Chair*

APPROVED BY AGENCY: February 12, 2024

FILED WITH LRC: February 15, 2024 at 11:40 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on April 29, 2024, at 10:00 a.m. in the State Board

Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email [regcomments@education.ky.gov](mailto:regcomments@education.ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Todd Allen**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes the qualifications and procedures for probationary certificates for teachers of exceptional children.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to set the certification requirements for probationary certificates for teachers of exceptional children.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

KRS 161.020, 161.028 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This administrative regulation delineates the certification requirements for the probationary certificate for teachers of exceptional children when no qualified candidates are available.

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

**(a) How the amendment will change this existing administrative regulation:**

The proposed amendment streamlines the language in Section 2 of the regulation to make clear that any Kentucky certified teacher is eligible for a probationary certificate upon enrollment in an approved educator preparation program for teachers of exceptional children and removes the requirement that the candidate complete coursework prior to issuance of the certificate. The amendment also removes the reference to an outdated application form.

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

This amendment is necessary to allow candidates to be issued probationary certificates upon enrollment in an approved educator preparation program for teachers of exceptional children.

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

The amendment removes inaccurate terminology and reflects the correct name of the program teacher assignment.

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

This amendment streamlines the language in section 2 of the regulation to make clear that any Kentucky certified teacher is eligible for a probationary certificate upon enrollment in an approved educator preparation program for teacher of exceptional children.

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

171 Kentucky school districts, 31 institutions of higher education with an approved educator preparation program, and those pursuing probationary certification.

**(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:**

This amendment will not require any additional actions from the regulated entities. It removes the reference to an outdated application form and removes the requirements that an applicant complete coursework prior to issuance of the probationary certificate. Applicants for the probationary certificate will have to maintain employment in the role in a Kentucky district and enroll in an approved educator preparation program. Districts will have to provide the EPSB with verification of employment and that no qualified candidates were available. Institutions of higher education will have to verify enrollment.

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

There is no fee established by the Education Professional Standards Board in this regulation.

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

Compliance will result in issuance of a probationary certificate to eligible candidates sooner.

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

**(a) Initially:**

There are no costs expected to implement this amendment.

**(b) On a continuing basis:**

There are no expected continuing costs with this amendment.

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

General Fund.

**(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 will not be necessary for the Education Professional Standards Board to implement this administrative regulation.

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

No fees are established or increased by this regulation.

**(9) TIERING: Is tiering applied?**

Tiering is not applicable to the requirements of this regulation because the standards apply to all districts and teachers seeking probationary certification.

## 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 EPSB and public-school districts.

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

KRS 161.020, KRS 161.028.

**(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?**

The amendment to this administrative regulation is not expected to generate any revenue during the first year.

**(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?**

The amendment to this administrative regulation is not expected to generate any revenue during subsequent years.

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

There are no additional costs expected with this amendment.

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

There are no additional costs expected with this amendment.

**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:**

The EPSB is not imposing or collecting any fees under this administrative regulation. There are no fees for probationary certificates.

**(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?**

None anticipated.

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

None anticipated.

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

There are no costs created by this amendment.

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

There are no costs created by this amendment.

**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)] There is not an expected major economic impact from this regulation as it does not create additional costs for the EPSB or the regulated entities.

## FEDERAL MANDATE ANALYSIS COMPARISON

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

34 C.F.R. § 300.156 (c)(2) establishes standards for a teacher participating in an alternate route to special education certification program to meet personnel qualifications under the Individuals with Disabilities Education Act.

**(2) State compliance standards.**

The standards for the probationary certificate for teachers of exceptional children contained in this administrative regulation comply with the requirement in 34 C.F.R. § 300.156 (c)(2) because candidates using this pathway to obtain special education certification will assume functions as a teacher only for a specified period not to exceed three years, and demonstrate satisfactory progress toward full certification. As probationary certificates are only available for candidates who hold a Kentucky teaching certificate, they are receiving professional development in accordance with KRS 156.095 and supervision and guidance in accordance with KRS 156.557.

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

34 C.F.R. § 300.156 (c)(2) requires teachers participating in an alternate route to special education certification program to receive high-quality professional development, participate in a program of intensive supervision that consists of structured guidance and regular ongoing support, assume functions as a teacher only for a specified period not to exceed three years, and demonstrate satisfactory progress toward full certification as prescribed by the State.

**(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?**

This regulation will not impose stricter requirements, or additional or different responsibilities or requirements. All candidates for probationary certification for teachers of exceptional children will receive high-quality professional development, participate in a program of intensive supervision that consists of structured guidance and regular ongoing support, and demonstrate satisfactory progress toward full certification. The regulation will limit probationary certificates for teachers of exceptional children to three years as required by the federal regulation.

**(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.**

Not applicable.