

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: 707 KAR 1:340, Procedural safeguards and state complaint procedures (Second Reading)

Date: April 2021

Action Requested: ☐ Review ☒ Action/Consent ☐ Action/Discussion

Held In: ☒ Full Board ☐ Curriculum, Instruction and Assessment ☐ Operations

SUMMARY OF ISSUE BEFORE THE BOARD:

To take action on the proposed amendments to 707 KAR 1:340, Procedural safeguards and state complaint procedures.

KRS 157.200 to 157.290 establish the state statutory framework for special education programs in local school districts. KRS 157.220 requires the Kentucky Board of Education (KBE) to adopt rules and administrative regulations for proper administration of these programs. KRS 156.035 authorizes the KBE to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of these funds in accordance with state and federal laws.

20 U.S.C. 1407 and 1412 and 34 C.F.R. 300.100 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws.

COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends approval of the proposed amendments.

APPLICABLE STATUTE OR REGULATION:

KRS 157.200 to 157.290, KRS 156.035, 20 U.S.C. 1407 and 1412, and 34 C.F.R. 300.100

BACKGROUND:

Existing Policy:

707 KAR 1:340 establishes procedural safeguards for children with disabilities and their parents and lists the requirements for filing a written complaint.

Summary of Issue:

Proposed amendments are located in Sections 3, 4, 7, 8 and 18 of the regulation. Amendments are needed to Sections 3 and 4 in order to clarify the difference between an Admissions and Release Committee (ARC) meeting notice to parents and prior written notice provided to parents, clarify the content of the notices, and also establish the timeframes in which each notice must be provided. Proposed amendments are being suggested at this time due to data that was collected through the monitoring of special education programs and formal complaint investigations that

indicated a need to clarify the difference between these two notices. In Section 7, the word “judge” is replaced by the word “court”. In Section 8, the word “of” appears incorrectly twice and is being removed. Updated section reference numbers are updated throughout.

The proposed amendment to Section 18 is to delete this section. Section 18 references the “Request for a Due Process Hearing” and incorporates it by reference. Incorporating this form by reference has been problematic when needing to update information. Examples of updates needed to the form include adding the new KDE logo, changing the KDE address when the KDE offices moved from Mero Street to Sower Boulevard, KDE reorganization leading to a new title of the office to which this form is submitted and a change in employment leading to a change in who receives the form at KDE. It was also necessary to ensure this form was ADA 508 compliant before posting on the KDE website, and this was difficult without being able to change the form. Additionally, the KDE would like to update this form to a fillable form to allow for easier use by parents. Each of the examples provided as updates currently needed to the form may continue to change over time and require additional updates to the form. Removing this form from the regulation will allow the KDE to change information on the form and update it as necessary in order to present the most accurate and accessible information to parents and other stakeholders.

Budget Impact:

This amendment has no budgetary impact to school districts or the KDE because school districts are under an existing obligation to comply with federal law and training will be done in coordination with other beginning and end-of-year trainings.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

The KDE received correspondence from Protection and Advocacy on September 23, 2020 and presented proposed amendments to the Local Superintendents Advisory Council (LSAC) on November 24, 2020. The KDE will ask LSAC to review updated amendments at its meeting on March 30, 2021. Their feedback will be shared with the KDE prior to the April 7, 2021 board meeting.

CONTACT PERSON(S):

Gretta Hylton, Associate Commissioner
Office of Special Education and Early Learning
Email: gretta.hylton@education.ky.gov
(502) 564-4970



Commissioner of Education

Category:	<input type="checkbox"/> Educator Workforce Diversity Commitment	<input type="checkbox"/> Portrait of a Graduate Partnerships	<input type="checkbox"/> Racial Equity
	<input type="checkbox"/> Student-Centered Accountability System	<input type="checkbox"/> Early Childhood	<input checked="" type="checkbox"/> District Support