

## KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

**Topic:** Amendments to 707 KAR 1:002, Definitions

**Date:** December 2022

**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 proposed amendments to 707 KAR 1:002 to delete definitional requirements and align with guidance from the United States Department of Education's Office of Special Education Programs and with KRS 157.200.

### COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends approval of the proposed amendments to align 707 KAR 1:002 with the Individuals with Disabilities Education Act (IDEA) and KRS 157.200.

### 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

### BACKGROUND:

*Existing Policy:*

707 KAR 1:002 establishes definitions for administrative regulations regarding special education.

*Summary of Issue:*

Proposed amendments are contained in sections 1(29) and (65) of the regulation. The proposed amendment of section 1(29) deletes language that specifies ranges of hearing loss necessary to establish hearing impairment. The proposed amendment of section 1(65) deletes language that prescribes the specified loss of visual acuity necessary to establish visual impairment. KRS 157.200 does not prescribe specific ranges of loss or acuity necessary to establish hearing or visual impairment. The Office of Special Education Programs (OSEP) has advised state directors of special education that while states are permitted to establish standards for eligibility for special education and related services, and are not required to use the precise definition of a disability term in the IDEA, these state established standards must not narrow the definitions in the IDEA. States may not use criteria or other definitions that may exclude otherwise eligible children. OSEP 17-05.

*Budget Impact:*

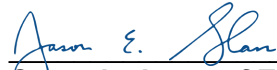
These amendments have no budgetary impact to school districts or the KDE because school districts are under an existing obligation to comply with federal law and training will be done in coordination with other beginning and end of year trainings.

### GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

The KDE is informed in proposing the amendment by correspondence from the United States Department of Education's Office of Special Education Programs (OSEP) and will present proposed amendments to the Local Superintendents Advisory Council (LSAC) on November 22, 2022. Their feedback will be shared with the KBE prior to the December 6, 2022 board meeting.

**CONTACT PERSON(S):**

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**Commissioner of Education**

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