

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Action Item:

16 KAR 2:120, Emergency Certification and Out-of-Field Teaching, Amendment

Staff Recommendation:

The Education Professional Standards Board (EPSB) should approve the amendments to 16 KAR 2:120.

Rationale:

The proposed amendment is necessary to ensure that 16 KAR 2:120 does not conflict with the Individuals with Disabilities Education Act (IDEA). The amendment prohibits the issuance of emergency certificates for special education teachers. The proposed amendment also removes outdated application forms and updates the grade point average (GPA) requirement for emergency teaching and emergency substitute certificates. Additionally, the amendment allows for two issuances of an emergency teaching certificate.

Action Question:

Should the EPSB approve the proposed amendment to 16 KAR 2:120?

Applicable Statute or Regulation:

KRS 161.020, KRS 161.028, KRS 161.100, 16 KAR 2:120

History/Background:

Existing Policy: KRS 161.100 authorizes the EPSB to establish qualifications for granting emergency certificates if qualified teachers are not available for specific positions. 16 KAR 2:120 establishes the qualifications and procedures for emergency certifications and establishes the definition for out-of-field teaching.

IDEA regulation sets personnel qualifications for special education teachers. Specifically, 34 CFR 300.156 (c) provides “(1) The qualifications described in paragraph (a) of this section must ensure that each person employed as a public-school special education teacher in the State who teaches in an elementary school, middle school, or secondary school—

- (i) Has obtained full State certification as a special education teacher (including certification obtained through an alternate route to certification as a special educator, if such alternate route meets minimum requirements described in 34 CFR 200.56(a)(2)(ii) as such section was in effect on November 28, 2008), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the teacher must meet the certification or licensing requirements, if any, set forth in the State’s public charter school law;

- (ii) Has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
- (iii) Holds at least a bachelor's degree.

(2) A teacher will be considered to meet the standard in paragraph (c)(1)(i) of this section if that teacher is participating in an alternate route to special education certification program under which—

- (i) The teacher—
 - (A) Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;
 - (B) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;
 - (C) Assumes functions as a teacher only for a specified period of time not to exceed three years; and
 - (D) Demonstrates satisfactory progress toward full certification as prescribed by the State; and
- (ii) The State ensures, through its certification and licensure process, that the provisions in paragraph (c)(2)(i) of this section are met.

Summary: To comply with the IDEA prohibition on emergency certificates for special education teachers, the proposed amendment prohibits the issuance of a Kentucky emergency certificate for teaching exceptional children or interdisciplinary early childhood education. The amendment also removes the reference to outdated application forms, updates the GPA requirement for emergency teaching and substitute certificates, and allows for two issuances of an emergency teaching certificate. A copy of the proposed amendment is included for EPSB review.

Budget Impact: There is no budgetary impact.

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