

1 EDUCATION AND LABOR CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amendment)

5 707 KAR 1:002. Definitions.

6 RELATES TO: KRS 157.200, 157.220, 157.224, [~~157.226~~], 157.230, 157.250, 157.260,

7 [~~157.270,~~] 157.280, 157.285, 157.290, 157.360, 158.030, 158.033, 158.100, 158.150, 160.290,

8 34 C.F.R. 300.1-300.818, 20 U.S.C. 1400-1419

9 STATUTORY AUTHORITY: KRS 156.035, 156.070(1), 156.160, 157.220, 157.224, 157.260,

10 167.015

11 NECESSITY, FUNCTION, AND CONFORMITY: KRS 157.200 to 157.290 establish the

12 statutory framework for special education programs in local school districts. KRS 157.220

13 requires the Kentucky Board of Education to adopt rules and administrative regulations for

14 proper administration of these programs. KRS 156.035 authorizes the Kentucky Board of

15 Education to implement any act of Congress appropriating funds to the state and to provide for

16 the proper apportionment and disbursement of these funds in accordance with state and

17 federal laws. 20 U.S.C. 1407 and 1412 and 34 C.F.R. 300.100 require that policies and

18 procedures be adopted to assure the apportionment and disbursement of federal funds for

19 exceptional children programs in accordance with applicable laws. This administrative

regulation establishes definitions for this chapter of administrative regulations regarding special education.

Section 1. Definitions. (1) "Admissions and release committee" or "ARC" means a group of individuals described in 707 KAR 1:320, Section 3, that is responsible for developing, reviewing, or revising an individual education program (IEP) for a child with a disability.

(2) "Adverse effect" means that the progress of the child is impeded by the disability to the extent that the educational performance is significantly and consistently below the level of similar age peers.

(3) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not mean a medical device that is surgically implanted, or the replacement of such a device.

(4) "Assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. This term shall include:

(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, like those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the child.

(5) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3) that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term shall not apply if a child's educational performance is adversely affected primarily because the child has an emotional-behavior disability.

(6) "Business day" means Monday through Friday except for federal and state holidays, unless a holiday is specifically included in the designation of business day as in 707 KAR 1:370, Section 1.

(7) "Caseload ~~[for special classes]~~" means the number of children with disabilities assigned to a teacher of exceptional children for the purpose of overseeing the management of ~~[providing]~~ individualized specially designed instruction and related services ~~[in a special class setting]~~.

(8) "Change of placement because of disciplinary removals" means a change of placement occurs if:

(a) The removal is for more than ten (10) consecutive school days; or

(b) The child has been subjected to a series of removals that constitute a pattern (which is determined on a case-by-case basis) because:

1. The series of removals total more than ten (10) school days in a school year;

2. The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

3. Of additional factors, including the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one (1) another.

(9) "Child with a disability" means a child evaluated in accordance with 707 KAR 1:300, as meeting the criteria listed in the definitions in this section for autism, deaf-blindness, developmental delay, emotional-behavior disability, hearing impairment, mental disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment which has an adverse effect on the child's educational performance and who, as a result, needs special education and related services.

~~[(10) "Class size for resource classes" means the number of children with disabilities assigned to a teacher of exceptional children per period, block, or the specified length of time set by the individual school.]~~

(10) ~~[(11)]~~ "Collaboration" means, for purposes of determining class size in 707 KAR 1:350, Section 2, a teacher of exceptional children works with children with disabilities in the regular classroom to provide specially designed ~~[specifically designed]~~ instruction and related services.

(11) ~~[(12)]~~ "Complaint" means a written allegation that a local education agency (LEA) has violated a requirement of the Individuals with Disabilities Education Act (IDEA) or an implementing administrative regulation, and the facts on which the statement is based.

(12) ~~[(13)]~~ "Compliance" means the obligations of state or federal requirements are met.

(13) ~~[(14)]~~ "Compliance monitoring report" means a written description of the findings of an investigation, like on-site monitoring, citing each requirement found in noncompliance.

1 (14) ~~[(15)]~~ "Consent" means:

2 (a) A parent has been fully informed of all information relevant to the activity for which consent

3 is sought, in his or her native language, or other mode of communication;

4 (b) A parent understands and agrees in writing to the carrying out of the activity for which his or

5 her consent is sought, and the consent describes the activity and lists the records, if any, that

6 will be released and to whom;

7 (c) A parent understands that the granting of consent is voluntary on the part of the parent and

8 may be revoked at any time; and

9 (d) If a parent revokes consent, that revocation does not negate an action that has occurred

10 after the consent was given and before the consent was revoked.

11 (15) ~~[(16)]~~ "Controlled substance" means a drug or other substance identified under 21 U.S.C.

12 Section 812(c).

13 (16) ~~[(17)]~~ "Core academic subjects" means English, reading or language arts, mathematics,

14 science, foreign language, civics and government, economics, arts, history, and geography.

15 (17) ~~[(18)]~~ "Corrective action plan or "CAP" means a written improvement plan describing

16 activities and timelines, with persons responsible for implementation, developed to correct

17 identified areas of noncompliance, including directives from the Kentucky Department of

18 Education, specifying actions to be taken to fulfill a legal obligation.

19 (18) ~~[(19)]~~ "Course of study" means a multiyear description of coursework from the student's

20 current school year to the anticipated exit year designed to achieve the student's desired

21 postschool goals.

22 (19) ~~[(20)]~~ "Day" means calendar day unless otherwise indicated as business day or school

23 day.

1 (20) [~~(24)~~] "Deaf-blindness" means concomitant hearing and visual impairments that have an
2 adverse effect on the child's education performance, the combination of which causes severe
3 communication and other developmental and educational needs that cannot be
4 accommodated in special education programs solely for children with deafness or children with
5 blindness, unless supplementary assistance is provided to address educational needs
6 resulting from the two (2) disabilities.

7 (21) [~~(22)~~] "Developmental delay" or "DD" means that a child within the ages of three (3)
8 through eight (8) has not acquired skills, or achieved commensurate with recognized
9 performance expectations for his or her age in one (1) or more of the following developmental
10 areas: cognition, communication, motor development, social-emotional development, or self-
11 help-adaptive behavior. Developmental delay includes a child who demonstrates a
12 measurable, verifiable discrepancy between expected performance for the child's chronological
13 age and current level of performance. The discrepancy shall be documented by:

14 (a) Scores of two (2) standard deviations or more below the mean in one (1) of the areas listed
15 above as obtained using norm-referenced instruments and procedures;

16 (b) Scores of one and one-half (1 1/2) standard deviations below the mean in two (2) or more
17 of the areas listed above using norm-referenced instruments and procedures; or

18 (c) The professional judgment of the ARC that there is a significant atypical quality or pattern of
19 development. Professional judgment shall be used only where normal scores are inconclusive
20 and the ARC documents in a written report the reasons for concluding that a child has a
21 developmental delay.

22 (22) [~~(23)~~] "Education records" means records as defined in the Family Educational Rights and
23 Privacy Act of 1974, 20 U.S.C. Section 1232g.

1 ~~(23)~~ [(24)] (a) "Emotional-behavioral disability" or "EBD" means that a child, when provided
2 with interventions to meet instructional and social-emotional needs, continues to exhibit one (1)
3 or more of the following, when compared to the child's peer and cultural reference groups,
4 across settings, over a long period of time and to a marked degree:

- 5 1. Severe deficits in social competence or appropriate behavior which cause an inability to
6 build or maintain satisfactory interpersonal relationships with adults or peers;
- 7 2. Severe deficits in academic performance which are not commensurate with the student's
8 ability level and are not solely a result of intellectual, sensory, or other health factors but are
9 related to the child's social-emotional problem;
- 10 3. A general pervasive mood of unhappiness or depression; or
- 11 4. A tendency to develop physical symptoms or fears associated with personal or school
12 problems.

13 (b) This term does not apply to children who display isolated (not necessarily one (1))
14 inappropriate behaviors that are the result of willful, intentional, or wanton actions unless it is
15 determined through the evaluations process that the child does have an emotional-behavioral
16 disability.

17 ~~(24)~~ [(25)] "Enforcement" means the Kentucky Department of Education takes steps to ensure
18 federal and state special education requirements are implemented.

19 ~~(25)~~ [(26)] "Extended school year services" means specially designed instruction and related
20 services that are provided to a child with a disability beyond the normal school year in
21 accordance with the child's IEP at no cost to the parents.

22 ~~(26)~~ [(27)] "Free appropriate public education" or "FAPE" means special education and related
23 services that:

- 24 (a) Are provided at public expense, under public supervision and direction, and without charge;

(b) Meet the standards of the Kentucky Department of Education included in 707 KAR Chapter 1 and the Program of Studies, 704 KAR 3:303, as appropriate;

(c) Include preschool, elementary school, or secondary school education in the state; and

(d) Are provided in conformity with an individual education program (IEP) that meets the requirements of 707 KAR 1:320.

(27) ~~[(28)]~~ "Functional" means activities and skills that are not considered academic or related to a child's academic achievement as measured on statewide assessments pursuant to 703 KAR Chapter 5.

(28) ~~[(29)]~~ "Hearing impairment", sometimes referred to as "deaf" or "hard of hearing", means a hearing loss that:

(a) May be mild to profound, unilateral or bilateral, permanent or fluctuating;

(b) Results in difficulty identifying linguistic information through hearing; and

(c) Has an adverse effect on the child's educational performance.

(29) ~~[(30)]~~ "High school diploma" means the student has completed the required course of study with the minimum number of credit hours as required by 704 KAR 3:305 and any applicable local district requirements. "High school diploma" does not mean a certificate of completion or a GED.

(30) ~~[(31)]~~ "Home school" means, for purposes of 707 KAR Chapter 1 only, a private school primarily conducted in one's residence.

(31) ~~[(32)]~~ "IDEA" means the Individuals with Disabilities Education Act, 20 U.S.C. Section 1400 through 1450, as amended.

(32) ~~[(33)]~~ "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of the child in question.

(33) [(34)] "Individual education program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 707 KAR 1:320.

(34) [(35)] "Interpreting services" means, with respect to children who are deaf or hard of hearing, oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services such as communication access real-time translation (CART) C-Print and Type Well and special interpreting services for children who are deaf-blind.

(35) [(36)] "Local educational agency" or "LEA" means a public local board of education or other legally constituted public authority that has either administrative control or direction of public elementary or secondary schools in a school district or other political subdivision of the Commonwealth. LEA also means any other public institution or agency, including the Kentucky School for the Blind (KSB) and the Kentucky School for the Deaf (KSD), that is charged by state statute with the responsibility of providing educational services to children with disabilities.

(36) [(37)] "Mental disability" means that a child has one (1) of the following:

(a) A mild mental disability (MMD) in which:

1. Cognitive functioning is at least two (2) but no more than three (3) standard deviations below the mean;
2. Adaptive behavior deficit is at least two (2) standard deviations below the mean;
3. A severe deficit exists in overall academic performance including acquisition, retention, and application of knowledge; and

4. Manifestation is typically during the developmental period; or

(b) A functional mental disability (FMD) in which:

1. Cognitive functioning is at least three (3) or more standard deviations below the mean;

2. Adaptive behavior deficits are at least three (3) or more standard deviations below the mean;

3. A severe deficit exists in overall academic performance including acquisition, retention, and application of knowledge; and

4. Manifestation is typically during the developmental period.

(37) ~~[(38)]~~ "Monitoring" means gathering and reviewing information to determine if a project or program meets state and IDEA requirements including the implementation of corrective action plans.

(38) ~~[(39)]~~ "Multiple disabilities" or "MD" means concomitant impairments that have an adverse effect on the child's educational performance, the combination of which causes severe educational needs that cannot be accommodated in special education programs solely for one (1) of the impairments. Examples of MD include mental disability-blindness, and mental disability-orthopedic impairment. Multiple disabilities does not mean deaf-blindness nor does it mean a speech or language impairment in combination with another category of disability.

(39) ~~[(40)]~~ "Native language" means, if used in reference to an individual of limited English proficiency, the following:

(a) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child;

(b) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment; or

(c) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication that is normally used by the individual, such as sign language, Braille, or oral communication.

1 (40) [(44)] "Orthopedic impairment" or "OI" means a severe orthopedic impairment that
2 adversely affects a child's educational performance. The term includes:
3 (a) An Impairment caused by a congenital anomaly such as clubfoot, or absence of some
4 member;
5 (b) An Impairment caused by disease such as poliomyelitis, or bone tuberculosis; and
6 (c) An impairment from other causes such as cerebral palsy, amputations, and fractures or
7 burns that causes contractures.

8 (41) [(42)] "Other health impairment" or "OHI" means having limited strength, vitality, or
9 alertness, including a heightened alertness to environmental stimuli, that results in limited
10 alertness with respect to the educational environment, that:
11 (a) Is due to a chronic or acute health problem, such as acquired immune deficiency
12 syndrome, asthma, attention deficit disorder, attention deficit hyperactivity disorder, diabetes,
13 epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever,
14 sickle cell anemia, Tourette syndrome, or tuberculosis; and
15 (b) Adversely affects a child's educational performance.

16 (42) "Paraprofessional" has the same meaning as in 704 KAR 3:550.

17 (43) "Parent" means:
18 (a) A biological or adoptive parent of a child;
19 (b) A guardian generally authorized to act as the child's parent, or authorized to make
20 educational decisions for the child, but not the state if the child is a ward of the state;
21 (c) A person acting in the place of a biological or adoptive parent such as a grandparent,
22 stepparent, or other relative with whom the child lives, or a person who is legally responsible
23 for the child's welfare;

1 (d) A foster parent if the biological or adoptive parents' authority to make educational decisions
2 on the child's behalf has been extinguished and the foster parent has an ongoing, long-term
3 parental relationship with the child, is willing to make the educational decisions required of
4 parents under 707 KAR Chapter 1, and has no interest that would conflict with the interests of
5 the child;

6 (e) A foster parent if the biological or adoptive parents grant authority in writing for the foster
7 parent to make educational decisions on the child's behalf, and the foster parent is willing to
8 make educational decisions required of parents under 707 KAR Chapter 1, and has no interest
9 that would conflict with the interests of the child; or

10 (f) A surrogate parent who has been appointed in accordance with 707 KAR 1:340, Section 6.

11 (44) "Participating agency" means a state or local agency other than the LEA that is financially
12 and legally responsible for providing transition services to a child with a disability.

13 (45) "Personally identifiable information" means information that includes the name of the child,
14 the child's parents, or other family member, the address of the child, a personal identifier,
15 including the child's Social Security number or student number, or a list of personal
16 characteristics or other information that would make it possible to identify the child with
17 reasonable certainty.

18 (46) "Postsecondary goals" means those goals that a student hopes to achieve after leaving
19 high school.

20 (47) "Parentally-placed private school children with disabilities" means children with disabilities
21 enrolled by their parents in private elementary or secondary school as defined by IDEA
22 regulations, 34 C.F.R. Part 300.13 and 300.36, and not children with disabilities enrolled in
23 private schools upon referral by a LEA.

1 (48) "Public expense" means that the LEA either pays for the full cost of the services to meet
2 the requirements of 707 KAR Chapter 1 or ensures that the services are otherwise provided at
3 no cost to the parent. Nothing in these administrative regulations shall relieve an insurer or
4 similar third party from an otherwise valid obligation to provide or to pay for services provided
5 to a child with a disability.

6 (49) "Qualified personnel" means personnel who meet the statutory or regulatory qualifications
7 for each respective profession currently applicable in this state.

8 (50) "Reasonable efforts to obtain voluntary compliance" means active and ongoing efforts by
9 the Kentucky Department of Education through technical assistance and negotiation to arrive
10 at an acceptable corrective action plan and follow through on an agreed-upon corrective action
11 plan.

12 (51) (a) "Related services" means transportation and such developmental, corrective, or
13 supportive services as are required to assist a child with a disability to benefit from special
14 education. It includes speech-language pathology and audiology services, interpreting
15 services, psychological services, physical and occupational therapy, recreation including
16 therapeutic recreation, early identification and assessment of disabilities in children, counseling
17 services including rehabilitation counseling, orientation and mobility services, and medical
18 services for diagnostic or evaluation purposes.

19 (b) "Related services" also means school health services and school nurse services, social
20 work services in school, and parent counseling and training.

21 (c) "Related services" do not include a medical device that is surgically implanted, the
22 optimization of that device's functioning (such as mapping) maintenance of that device, or the
23 replacement of that device.

24 (d) The definition of "related services" does not:

1 1. Limit The responsibility of the LEA to appropriately monitor and maintain medical devices
2 that are needed to maintain the health and safety of the child, including breathing, nutrition, or
3 operation of other bodily functions, while the child is transported to and from school or is at
4 school;

5 2. Prevent the routine checking of an external component of a surgically implanted device to
6 make sure it is functioning properly; or

7 3. Limit The right of a child with a surgically implanted device to receive related services that
8 are determined by the ARC to be necessary for the child to receive FAPE.

9 (52) "Sanctions" means actions such as technical assistance, consultation, or training, that are
10 taken by the Kentucky Department of Education in response to a LEA's failure to comply with
11 the required standards in state and federal laws and administrative regulations.

12 (53) "School day" means any day, including a partial day, that children attend school for
13 instructional purposes. School day means the same thing for all children in school, including
14 children with or without disabilities.

15 (54) "Serious bodily injury" means bodily injury as defined in 18 U.S.C. Section 1365(h)(3).

16 (55) "Services plan" means a written statement that describes the special education or related
17 services that the LEA will provide to a parentally-placed child with a disability enrolled in a
18 private school who has been designated to receive services, including the location of the
19 services and any transportation necessary that is developed in accordance with 707 KAR
20 1:370.

21 (56) "Special education" means specially designed instruction, at no cost to the parents, to
22 meet the unique needs of the child with a disability including instruction in the classroom, in the
23 home, in hospitals and institutions, and in other settings. Special education means speech-

language pathology services, (if the service is considered special education rather than a related service), travel training, and vocational education.

(57) [(58)] "Special class" means a specially equipped and staffed class in which a child with a disability, individually or in small groups, spends part of his or her day receiving specially designed instruction or related services as determined by the ARC.

(58) [(59)] "Special education mentor" means individuals with exceptional expertise, experience, and certification in special education administration or teaching granted the authority described in KRS 157.197.

(59) [(60)] "Specially [-]designed instruction" means adapting as appropriate the content, methodology, or delivery of instruction to address the unique needs of the child with a disability and to ensure access of the child to the general curriculum included in the Kentucky Academic Standards, 704 KAR Chapter 8 [Program of Studies, 704 KAR 3:303].

(60) [(64)] "Specific learning disability" or "LD" means a disorder that adversely affects the ability to acquire, comprehend, or apply reading, mathematical, writing, reasoning, listening, or speaking skills to the extent that specially designed instruction is required to benefit from education. The specific learning disability (LD) may include dyslexia, dyscalculia, dysgraphia, developmental aphasia, and perceptual/motor disabilities. The term does not include deficits that are the result of other primary determinant or disabling factors such as vision, hearing, motor impairment, mental disability, emotional-behavioral disability, environmental or economic disadvantage, cultural factors, limited English proficiency, or lack of relevant research-based instruction in the deficit area.

(61) [(62)] "Speech or language impairment" means a communication disorder, including stuttering, impaired articulation, a language impairment, a voice impairment, delayed

1 acquisition of language, or an absence of language, that adversely affects a child's educational
2 performance.

3 (62) [(63)] "Supplementary aids and services" means aids, services, and other supports that
4 are provided in regular education classes or other education-related settings to enable a child
5 with disabilities to be educated with nondisabled children to the maximum extent appropriate in
6 accordance with 707 KAR 1:350.

7 (63) [(64)] "Transition services" means a coordinated set of activities for a child with a disability
8 that:

9 (a) Is designed to be within a results-oriented process that is focused on improving the
10 academic and functional achievement of the child with a disability to facilitate the child's
11 movement from school to post-school activities, including postsecondary education, vocational
12 training, integrated employment (including supported employment), continuing and adult
13 education, adult services, independent living, or community participation;

14 (b) Is based on the individual student's needs, considering the child's strengths, preferences,
15 and interests; and

16 (c) Includes:

- 17 1. Instruction;
- 18 2. Related services;
- 19 3. Community experiences;
- 20 4. The development of employment and other post-school adult living objectives; and
- 21 5. If appropriate, acquisition of daily living skills and functional vocational evaluation.

22 (64) [(65)] "Traumatic brain injury" or "TBI" means an acquired injury to the brain caused by an
23 external physical force, resulting in total or partial functional disability or psychosocial
24 impairment, or both, that adversely affects a child's educational performance. Traumatic brain

1 injury does not mean brain injuries that are congenital or degenerative, or brain injuries
2 induced by birth trauma. Traumatic brain injury means open or closed head injuries resulting in
3 impairments in one (1) or more areas, including:

- 4 (a) Cognition;
- 5 (b) Language;
- 6 (c) Memory;
- 7 (d) Attention;
- 8 (e) Reasoning;
- 9 (f) Abstract thinking;
- 10 (g) Judgment;
- 11 (h) Problem-solving;
- 12 (i) Sensory, perceptual, and motor abilities;
- 13 (j) Psychosocial behavior;
- 14 (k) Physical functions;
- 15 (l) Information processing; and
- 16 (m) Speech.

17 (65) [(66)] "Travel training" means instruction to children with significant cognitive disabilities
18 and any other children with disabilities, as appropriate, to enable them to develop an
19 awareness of the environment in which they live and to learn the skills necessary to move
20 effectively and safely from place to place within that environment, such as school, home, work
21 and community.

22 (66) [(67)] "Visual impairment" or "VI" means a vision loss, even with correction, that has an
23 adverse effect on the child's educational performance.

- 1 (67) [~~(68)~~] "Ward of the state" means a child who has been committed to the Cabinet for
2 Families and Children or the Department of Juvenile Justice through a legal process, whether
3 the commitment is voluntary or nonvoluntary and the biological or adoptive parental rights have
4 been terminated.
- 5 (68) [~~(69)~~] "Weapon" means "dangerous weapon" as defined in 18 U.S.C. 930(g)(2).
- 6 (69) [~~(70)~~] "Withholding" means no further payment of specified funds are made to an
7 approved recipient.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

(Date)

Dr. Robbie Fletcher
Commissioner of Education

(Date)

Sharon Porter Robinson, Chair
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on DATE, at TIME, in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. 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 DATE. 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: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, KY 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

707 KAR 1:002

Contact Person: Todd G. Allen

Phone: 502-564-4474

Email: todd.allen@education.ky.gov

Subject Headings: Education: Elementary, Education: Secondary

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes definitions for Kentucky Administrative Regulations, chapter 707 regarding special education.

(b) The necessity of this administrative regulation: KRS 157.220 requires the Kentucky Board of Education to adopt rules and administrative regulations for proper administration of special education programs in local school districts. Without this regulation, there would be no common definitions regarding special education programs in local school districts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 157.220 requires the Kentucky Board of Education to adopt rules and administrative regulations for proper administration of special education programs in local school districts.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes definitions for Kentucky Administrative Regulations, chapter 707 regarding special education programs in local school districts.

(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: Amendments remove the definition of “class size for resources classes” and add definitions for “paraprofessional” and “special class”. Clarification is added to the definition of “caseload for special classes” by removing “for special classes”. Technical corrections are applied to the definitions of “collaboration”, “private school children with disabilities”, and “specially designed instruction”.

(b) The necessity of the amendment to this administrative regulation: The amendments provide clarification to the definitions and will assist local school districts in implementing special education programs.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 157.220 requires the Kentucky Board of Education to adopt rules and administrative regulations for proper administration of special education programs in local school districts.

(d) How the amendment will assist in the effective administration of the statutes: The amendments provide clarification to the definitions and will assist local school districts in implementing special education programs.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local school districts, the Kentucky School for the Blind, and the Kentucky School for the Deaf.

(5) 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: The amendments do not change requirements and require no action. Local districts may decide to review and consider local special education policies and procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Costs to local school districts are in the form of staff time required to implement special education programs. It is not anticipated that these amendments will increase costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Clarification provided through the amendments may assist local school districts in effectively implementing special education programs.

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

(a) Initially: Costs to the Kentucky Department of Education are in the form of staff time spent providing technical assistance and monitoring local school districts in implementing special education programs. At this time, it is not anticipated that these amendments will increase costs.

(b) On a continuing basis: Costs to the Kentucky Department of Education are in the form of staff time spent providing technical assistance and monitoring local school districts in implementing special education programs. At this time, it is not anticipated that these amendments will increase costs.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: At the Kentucky Department of Education, the cost to implement and enforce this administrative regulation is federally funded under the Individuals with Disabilities Education Act (IDEA). Local school districts use a combination of IDEA and state and local funds to implement special education programs.

(8) 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: This administrative regulation does not establish fees. It is not anticipated that additional funding will be necessary to implement the amendments.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.

(10) TIERING: Is tiering applied? Tiering is not applied. The regulation is applied uniformly.

FISCAL IMPACT STATEMENT

707 KAR 1:002

Contact Person: Todd G. Allen

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(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 156.035, 156.070(1), 156.160, 157.220, 157.224, 157.260, 167.015, 34 C.F.R. 300.1-300.818, 20 U.S.C. 1400-1419

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is expressly authorized by Amended 1996 Ky. Acts ch. 362, sec. 6, effective July 15, 1996.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Through the Kentucky Board of Education, the Kentucky Department of Education is the promulgating agency.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: Costs to the Kentucky Department of Education are not expected but if incurred, would be in the form of staff time needed to implement and monitor special education programs.

For subsequent years: Costs to the Kentucky Department of Education are not expected but if incurred, would be in the form of staff time needed to implement and monitor special education programs.

2. Revenues:

For the first year: This regulation does not generate revenue.

For subsequent years: This regulation does not generate revenue.

3. Cost Savings:

For the first year: Amendments to this regulation are not expected to result in cost savings for the Kentucky Department of Education.

For subsequent years: Amendments to this regulation are not expected to result in cost savings for the Kentucky Department of Education.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local school districts, the Kentucky School for the Blind, and the Kentucky School for the Deaf.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: Additional costs to local school districts are not expected but if incurred, would be in the form of staff time required to implement special education programs.

For subsequent years: Additional costs to local school districts are not expected but if incurred, would be in the form of staff time required to implement special education programs.

2. Revenues:

For the first year: This regulation does not generate revenue.

For subsequent years: This regulation does not generate revenue.

3. Cost Savings:

For the first year: Amendments to this regulation are not expected to result in cost savings for local school districts.

For subsequent years: Amendments to this regulation are not expected to result in cost savings for local school districts.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: Not applicable.

For subsequent years: Not applicable.

2. Revenues:

For the first year: Not applicable.

For subsequent years: Not applicable.

3. Cost Savings:

For the first year: Not applicable.

For subsequent years: Not applicable.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal impact of this administrative regulation: Costs to the Kentucky Department of Education are not expected but if incurred, would be in the form of staff time needed to implement and monitor special education programs. Additional costs to local school districts are not expected but if incurred, would be in the form of staff time required to implement special education programs.

(b) Methodology and resources used to reach this conclusion: Amendments clarify definitions and do not impose new requirements that would result in fiscal impacts.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a “major economic impact”, as defined by KRS 13A.010(13): This administrative regulation will not have a “major economic impact”, as defined by KRS 13A.010(13).

(b) The methodology and resources used to reach this conclusion: Amendments clarify definitions and do not impose new requirements that would result in fiscal impacts.