

1 EDUCATION AND LABOR CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amendment)

5 707 KAR 1:350. Placement decisions.

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. 300.114 ~~[300.1-300.181]~~, 20 U.S.C., 1412(a)(5) ~~[1400-1419]~~

9 STATUTORY AUTHORITY: KRS 156.070(1), 156.160, 157.220, 157.224, 157.260, 157.360,

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 157.360 authorizes the commissioner of

15 education to enforce special education maximum class sizes set by administrative regulations

16 adopted by the Kentucky Board of Education. KRS 156.035 authorizes the Kentucky Board of

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

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

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

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

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

1 regulation establishes requirements for making placement decisions about children with  
2 disabilities.

3 Section 1. Placement Decisions. (1) An LEA shall ensure that to the maximum extent  
4 appropriate, children with disabilities, including children placed by the LEA in public or private  
5 institutions or other care facilities, are educated with children who are nondisabled. The LEA  
6 shall ensure that special classes, separate schooling, or other removal of children with  
7 disabilities from the regular educational environment occurs only if education in the regular  
8 education environment with the use of supplementary aids and services cannot be  
9 satisfactorily achieved due to the nature or severity of the disability.

10 (2) An LEA shall ensure that a continuum of alternative placements is available to meet the  
11 needs of children with disabilities for special education and related services.

12 (3) The continuum shall include the alternative placements of:

13 (a) Instruction in regular classes;

14 (b) Special classes;

15 (c) Special schools;

16 (d) Home instruction; and

17 (e) Instruction in hospitals and institutions.

18 (4) The LEA shall make provision for supplementary services to be provided in conjunction with  
19 regular class placement.

20 (5) In determining the educational placement of a child with a disability, the LEA shall ensure  
21 that the placement decision is made by the ARC in conformity with the least restrictive  
22 environment provisions.

23 (6) A child's placement shall be:

24 (a) Determined at least annually;

1 (b) Based on the child's IEP; and

2 (c) As close as possible to the child's home.

3 (7) Unless the IEP of a child with a disability requires some other arrangement, the child shall  
4 be educated in the school that he would attend if nondisabled.

5 (8) In selecting the least restrictive environment, consideration shall be given to any potential  
6 harmful effects on the child or on the quality of services that he needs.

7 (9) A child with a disability shall not be removed from education in age-appropriate regular  
8 classrooms solely because of needed modifications in the general curriculum.

9 (10) In providing or arranging for the provision of nonacademic and extracurricular services  
10 and activities, an LEA shall ensure that a child with a disability participates with nondisabled  
11 children in those services and activities to the maximum extent appropriate to the needs of the  
12 child.

13 Section 2. Class Size. (1) ~~[An LEA shall provide special education for each child with a~~  
14 ~~disability in accordance with the following maximum caseloads for special classes:~~

15 ~~(a) Emotional behavior disability is eight (8);~~

16 ~~(b) Functional mental disability is ten (10);~~

17 ~~(c) Hearing impairment is six (6);~~

18 ~~(d) Mild mental disability is fifteen (15);~~

19 ~~(e) Multiple disabilities is ten (10);~~

20 ~~(f) Orthopedic impairment is sixteen (16);~~

21 ~~(g) Other health impairment is sixteen (16);~~

22 ~~(h) Specific learning disability for primary is ten (10) and for secondary is fifteen (15); and~~

23 ~~(i) Visual impairment is ten (10).~~

1 ~~(2)~~ An LEA shall provide special education for each child with a disability in accordance with  
2 the following maximum size ~~[case loads]~~ for special ~~[resource]~~ classes:

3 (a) Emotional-behavior disability is nine (9) ~~[eight (8)]~~ or ten (10) if a paraprofessional is  
4 present;

5 (b) Functional mental disability is ~~[eight (8)]~~ eleven (11) or twelve (12) if a paraprofessional is  
6 present;

7 (c) Hearing impairment is ~~[eight (8)]~~ nine (9) or ten (10) if a paraprofessional is present;

8 (d) Mild mental disability is ~~[ten (10)]~~ sixteen (16) or seventeen (17) if a paraprofessional is  
9 present;

10 (e) Multiple disabilities is ~~[eight (8)]~~ eleven (11) or twelve (12) if a paraprofessional is present;

11 (f) Orthopedic impairment is ~~[ten (10)]~~ seventeen (17) or eighteen (18) if a paraprofessional is  
12 present;

13 (g) Other health impairment is ~~[ten (10)]~~ seventeen (17) or eighteen (18) if a paraprofessional  
14 is present;

15 (h) Specific learning disability for primary is ~~[ten (10)]~~ eleven (11) or twelve (12) if a  
16 paraprofessional is present and for secondary is sixteen (16) or seventeen (17) if a  
17 paraprofessional is present; and

18 (i) Visual impairment is ~~[eight (8)]~~ eleven (11) or twelve (12) if a paraprofessional is present.

19 (2) Special classes containing more than one disability category shall use the category of the  
20 majority of students in the class to determine the maximum size in accordance with subsection  
21 one (1) of this section.

22 (3) Children with disabilities that meet the definition of autism; deaf-blindness; developmental  
23 delay for ages six (6), seven (7), and eight (8); and traumatic brain injury shall be served in  
24 regular classes or ~~[,]~~ special classes, ~~[or resource classes]~~ as determined by the ARC.

~~[(4) If a teacher of exceptional children provides services through the collaborative model, the maximum caseload shall not exceed twenty (20) children with disabilities for secondary, and fifteen (15) children with disabilities for primary.~~

~~[(5) Pursuant to KRS 157.360, if caseload for special classes or class size for resource classes exceeds the maximum specified in this section for thirty (30) days, an LEA shall submit a waiver request to the Kentucky Department of Education.]~~

Section 3. Caseload for Teachers of Special Classes. [Case Load for Resource Teachers.] (1)

Caseloads for [resource] teachers of special classes shall refer to the maximum number of student records a teacher may be assigned. An LEA shall make those assignments based on the following:

(a) [(4)] Emotional-behavioral disability is seventeen (17) [~~fifteen (15)~~];

(b) [(2)] Functional mental disability is twelve (12) [~~ten (10)~~];

(c) [(3)] Hearing impairment is ten (10) [~~eight (8)~~];

(d) [(4)] Mild mental disability for primary is seventeen (17) [~~fifteen (15)~~] and for secondary is twenty-two (22) [~~(20)~~];

(e) [(5)] Multiple disabilities is twelve (12) [~~ten (10)~~];

(f) [(6)] Orthopedic impairment is twenty-two (22) [~~(20)~~];

(g) [(7)] Other health impairment is twenty-two (22) [~~(20)~~];

(h) [(8)] Specific learning disability for primary is seventeen (17) [~~fifteen (15)~~] and for secondary is twenty-two (22) [~~(20)~~];

(i) [(9)] Visual impairment is twelve (12) [~~ten (10)~~]; and

(j) [(10)] Speech language pathologist caseload limits as contained in KRS 334A.190.

1 (2) Teachers of special classes who are assigned student records of more than one disability  
2 category shall use the category of the majority of students on the caseload to determine the  
3 maximum caseload in accordance with subsection one (1) of this section.

4 (3) If a teacher of exceptional children provides services solely through collaboration, the  
5 maximum caseload shall not exceed fifteen (15) children with disabilities for primary and  
6 twenty (20) children with disabilities for secondary.

7 (4) If a teacher of exceptional children provides services through a combination of collaboration  
8 and special classes, the maximum caseload shall not exceed those established in subsection  
9 one (1) of this section.

10 Section 4. Waivers. (1) Pursuant to KRS 157.360, a superintendent or local school council may  
11 request a waiver relating to maximum class size for special classes.

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](mailto:regcomments@education.ky.gov)



## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

707 KAR 1:350

Contact Person: Todd G. Allen

Phone: 502-564-4474

Email: todd.allen@education.ky.gov

Subject Headings: Education, Education: Elementary, Education: Secondary

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for making placement decisions about children with disabilities.

(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.

(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 administrative regulation establishes requirements for making placement decisions about children with disabilities.

(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 amendments add language to align with the existing mechanism through which local school district superintendents or site-based decision making councils may request waivers relating to special education maximum class sizes pursuant to KRS 157.360. Amendments establish requirements for class size for special classes (currently caseloads for resources classes) and caseload for teachers of special classes (currently caseload for resource teachers). Parameters are established when special classes or teachers of special classes are providing or managing services for more than one disability category.

(b) The necessity of the amendment to this administrative regulation: The amendments provide clarification to special class sizes and caseload for teachers of special classes and will assist local school districts in implementing special education programs. Proposed language also aligns with the existing mechanism through which local school district superintendents and site-based decision-making councils may request waivers relating to special education maximum class sizes pursuant to KRS 157.360.

(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 special class sizes and caseload for teachers of special classes and will assist local school districts in implementing special education programs. Proposed language also aligns with the existing mechanism through which local school district superintendents and site-based decision-making councils may request waivers relating to special education maximum class sizes pursuant to KRS 157.360.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, amended 2025 Ky. Acts ch. 94, sec. 3, effective March 27, 2025.

(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): 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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendments provide clarification to special class sizes and caseload for teachers of special classes and will assist local school districts in implementing special education programs. Proposed language also aligns with the existing mechanism through which local school district superintendents and site-based decision-making councils may request waivers relating to special education maximum class sizes pursuant to KRS 157.360.

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

(a) Initially: Additional costs to the Kentucky Department of Education are not expected but if incurred, would be in the form of staff time spent providing technical assistance and monitoring local school districts in implementing special education programs.

(b) On a continuing basis: Additional costs to the Kentucky Department of Education are not expected but if incurred, would be in the form of staff time spent providing technical assistance and monitoring local school districts in implementing special education programs.

(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 applies uniformly.

## FISCAL IMPACT STATEMENT

707 KAR 1:002

Contact Person: Todd G. Allen

Phone: 502-564-4474

Email: todd.allen@education.ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 156.070(1), 156.160, 157.220, 157.224, 157.260, 157.360, 167.015, 34 C.F.R. 300.114, 20 U.S.C. 1412(a)(5)

(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 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 do not impose new requirements that would result in fiscal impacts.