

## KENTUCKY DEPARTMENT OF EDUCATION (KDE) STAFF NOTE

**Topic:** 707 KAR 3:410, Preschool education program. Amendment after comment.

**Date:** February 2026

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

**Held In:** ☒Full Board ☐State Schools ☐United We Learn

### SYNOPSIS OF WHAT YOU WILL BE SHARING:

To act on the request to amend after public comments on the following regulation:

704 KAR 3:410. Preschool education programs for four (4) year old children.

### COMMISSIONER'S RECOMMENDATION:

The Commissioner recommend approval of amendments after public comments to 704 KAR 3:410.

### APPLICABLE STATUTE OR REGULATION:

Relates to: KRS 65.250, 156.160, 157.3175, 158.032(3), 158.120, 214.034, 34 C.F.R. Part 99  
Statutory Authority: KRS 156.070, 156.160, 157.3175

### BACKGROUND:

#### *Existing Policy:*

KRS 156.160 authorizes the Kentucky Board of Education (KBE) to promulgate administrative regulations establishing standards which school districts shall meet in student, program, service and operational performance. KRS 157.3175 authorizes preschool education programs for 4-year-old children who are at risk of educational failure and authorizes administrative regulations to be promulgated to establish eligibility criteria, program guidelines, and standards for personnel. 704 KAR 3:410 establishes the criteria for the preschool education program for 4-year-old children who are at risk of educational failure, including procedures for a grant allocation system, eligibility criteria for children to be served, guidelines for program operation, and standards for personnel.

#### *Summary of Issue:*

To avoid expiration, KRS 13A.3104(1)(a) requires a review of the regulation in its entirety for compliance with current law governing the subject matter of the administrative regulation. Upon review of 704 KAR 3:410, amendments were identified to conform to current statutory requirements, as well as amendments to provide clarity about implementation of the preschool education program. The proposed amendments were approved by the KBE during the October 2025 meeting.

The public hearing on 704 KAR 3:410, scheduled for Dec. 23, 2025 was canceled pursuant to KRS 13A.270(7)(a); however, 17 written comments were received during the public comment period.

Subject Matter: Immunization Certificates

(a) Comments: Every commenter recommended changing language regarding required documentation for preschool admission from "A current immunization certificate as required by

KRS 214.034”, to “A current immunization certificate as required by KRS 214.034 or exemption as provided by KRS 214.036”.

(b) Response: KRS 214.036 establishes exceptions to testing or immunization requirements when a child’s attending health care provider provides a written opinion that testing or immunizations would be injurious to the child’s health, or when a child’s parents or guardian are opposed to medical immunizations against disease and provide a written sworn statement based on religious grounds. The KDE believes that adding this language will provide clarity on requirements and available exceptions to stakeholders, and will revise the proposed amendments to 707 KAR 3:410 to reflect this recommendation. The written comments contained the word “exemption”. “Exception” will be used to align with KRS 214.036.

Section 5(2)(c) was amended to read, “...A current immunization certificate as required by KRS 214.034, or exception as permitted by KRS 214.036;...”

*Budget Impact:*

There is no anticipated fiscal impact resulting from this proposed amendment after public comments.


*Groups Consulted and a Brief Summary of Responses:*

The Office of Special Education and Early Learning consulted with the KDE’s Office of Legal Services (OLS). OLS agreed with the proposed amendments after comments.

**CONTACT PERSON(S):**

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Commissioner of Education

**GOALS/PRIORITIES:** Indicate all applicable options.

<input checked="" type="checkbox"/> Foster Educational Innovation Through Vibrant Learning Experiences
<input type="checkbox"/> Advance Educational Excellence Through Continuous Professional Improvement
<input checked="" type="checkbox"/> Cultivate Collaborative Partnerships
<input type="checkbox"/> Legislation
<input type="checkbox"/> Commissioner’s Management