

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Action Item:

Recommendation to the Kentucky Board of Education on the Request from Covington Independent Public Schools to Waive KRS 161.020(1)(a).

Staff Recommendation:

The Education Professional Standards Board (EPSB) should recommend the Kentucky Board of Education (KBE) deny the request from Covington Independent Public Schools (District) to waive KRS 161.020(1)(a).

Rationale:

Staff within the Office of Educator Licensure and Effectiveness (OELE) urge the EPSB to recommend the KBE deny the request from the District to waive KRS 161.020(1)(a) as the District has not attempted to utilize existing certification options, including those non-traditional, alternative routes. Utilizing existing certification options to the fullest extent possible helps ensure that any individual serving in a public school position for which certificates may be issued has submitted to a Character and Fitness review and, upon certificate issuance, is subject to KRS 161.120 as well as 16 KAR 1:020.

Action Question:

What action does the EPSB recommend the KBE take regarding the request from the District to waive KRS 161.020(1)(a)?

Applicable Statute or Regulation:

KRS 161.020, KRS 156.161, 701 KAR 5:170

History/Background:

Existing Policy: KRS 156.161 authorizes the KBE to promulgate administrative regulations establishing procedures for processing requests to waive statutes or administrative regulations, which the KBE has done with the promulgation of 701 KAR 5:170. Effective July 15, 2026, this same statute states that the KBE “may also grant a waiver from the requirements of an administrative regulation promulgated by” the EPSB as well as grant waivers from statutes over which the EPSB “has authority to enforce” but only “after consultation with the” EPSB.

KRS 161.020 is within the authority of the EPSB to enforce and states, in paragraph (1)(a), that “[n]o person shall be eligible to hold the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued, or receive salary for services rendered in the position, unless he or she holds a certificate of legal qualifications for the position, issued by the” EPSB. Notwithstanding this mandate, KRS 156.161(1)(e) states the KBE “shall not waive any statute or administrative regulation...[e]stablishing certification requirements for teachers, **except a waiver may authorize up to twenty-five percent (25%) of the teaching staff of a school may be employed without teacher certification** if the individual possesses:

1. Baccalaureate or graduate degree in the subject the individual is hired to teach; or

2. Recognized industry credential in the technical education area the individual is hired to teach.” (emphasis added)

Summary: In the Specific Waiver Request Form submitted by the District, the District states that a waiver of KRS 161.020 is justified in light of the following: “The District has identified certain specialized and emerging fields (examples are manufacturing (sic), cyber security, and health sciences) where candidates do not typically hold teaching certificates but do have deep subject-matter expertise. Therefore, requiring teaching certificates limits the District’s hiring pool and ability to staff courses with authentic practitioners. Further, in order to access current industry experience the District believes having the ability to hire an individual with current industry expertise is only possible with the flexibility to staff an individual without a traditional teaching certificate.”

The District’s Specific Waiver Request Form does not identify which positions are open or which individuals the District desires to hire; however, the EPSB offers a number of educator certification options for which prospective candidates for the District’s unspecified open positions may qualify. For example, the Kentucky General Assembly has enacted, pursuant to KRS 161.048, nine (9) alternative routes to teacher and administrator certification for individuals demonstrating exceptional work and/or educational experiences. In addition, if the District is unable to fill a certified teaching position with a qualified teacher, the District may be able to fill the position with a person who meets minimum qualifications for emergency certification, which are set forth in KRS 161.100 and 16 KAR 2:120. More information on certification options and processes is publicly available at goteachky.gov or can be accessed by contacting the OELE by email (goteachky@education.ky.gov) or phone (502-564-4606).

As the District has not attempted to utilize existing certification options, including those non-traditional, alternative routes or any emergency certification processes, staff within the OELE urge the EPSB to recommend the KBE deny the request from the District to Waive KRS 161.020(1)(a). Utilizing existing certification options is a preferable starting point for a number of reasons, including but not limited to ensuring that any individual serving in a public school position for which certificates may be issued has submitted to a Character and Fitness review as required by the EPSB pursuant to the authority established in KRS 161.028(1)(a) to “establish standards and requirements for obtaining and maintaining a certificate” and, upon certificate issuance, is subject to the disciplinary actions outlined in KRS 161.120 as well as the Professional Code of Ethics for Kentucky School Certified Personnel that is set forth in 16 KAR 1:020.

It is also important to note that the EPSB routinely considers requests to waive its administrative regulations, including, for example, requests from school districts, the Office of Career and Technical Education, and applicants for certification. Prior to submitting its Specific Waiver Request Form, the District did not attempt to receive one or more waivers from the EPSB of any certification requirements; however, the District could do so at any time and for any job candidate they desire to employ that does not otherwise meet such requirements. Any individual who receives a waiver from one or more certification requirements would still complete a Character and Fitness review by the EPSB and, upon issuance, would be subject to KRS 161.120 and 16 KAR 1:020.

As a final matter, there are certification requirements that are not set forth in the Kentucky Revised

Statutes or in the Kentucky Administrative Regulations but, instead, are governed by applicable federal law. For example, 34 CFR § 300.156 addresses “[q]ualifications for special education teachers” and states, in part, that any “person employed as a public school special education teacher” shall not have “special education certification or licensure requirements waived on an emergency, temporary, or provisional basis” and, instead, shall have “obtained full State certification as a special education teacher.” Utilizing existing certification options as well as working directly with the EPSB to seek a waiver from one or more certification requirements also allows staff within OELE to proactively address legal nuances such as this and help school districts as well as applicants for certification remain compliant with applicable requirements, whether at the state or federal level.

Budget Impact: There is no budgetary impact.

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