

STATEMENT OF EMERGENCY

781 KAR 1:001

This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a) and is necessary to address an imminent threat to public welfare, ensure continued compliance with federal vocational rehabilitation requirements, and implement the mandates of SB 103 RS 25. The Office of Vocational Rehabilitation (OVR) is currently operating under an Order of Selection (OOS) because available resources are insufficient to serve all eligible individuals with disabilities. Under the existing regulatory framework, OVR cannot correctly assign priority categories or administer OOS in a manner consistent with 34 CFR §§ 361.36, 361.41, and 361.42. As a result, individuals with the most significant disabilities are being placed on waitlists under outdated and noncompliant criteria. Immediate regulatory correction is required to avoid continued improper prioritization and further delay in service delivery.

Immediate action is also required to prevent jeopardizing federal funding for the OVR program. Continued administration of an unlawful OOS constitutes federal noncompliance and poses a direct risk to Kentucky's ability to draw federal vocational rehabilitation funds. This creates an imminent threat to public welfare, as OVR is currently unable to serve new eligible individuals and cannot release any of the approximately 3,000 individuals now waiting for services until the regulations are corrected.

In addition, SB 103 RS 25 amended KRS 151B.195 to require OVR to promulgate administrative regulations that established a preference for in-state services and set forth its policy and procedure used to establish service fees.

Ordinary administrative regulation procedures are inadequate to prevent this harm, because the delay inherent in the ordinary process would prolong improper administration of the OOS and extend service denials for individuals with the most significant disabilities. Therefore, this emergency regulation is necessary to establish the legally required framework for OVR to comply with federal and state law and to protect public welfare.

This emergency regulation will be replaced by an ordinary administrative regulation because it is necessary for agency operations and to ensure the agency's policies are more transparent. The companion ordinary administrative regulation is identical to this emergency regulation.

Andy Beshear, Governor
Commonwealth of Kentucky

Vickie Wise, Deputy Secretary
Education and Labor Cabinet

1 EDUCATION AND LABOR CABINET

2 Department of Workforce Development

3 Office of Vocational Rehabilitation

4 (Emergency Amendment)

5 781 KAR 1:001E. Definitions.

6 RELATES TO: KRS 151B.185, 151B.190, 151B.195, 151B.200, 34 C.F.R. Part 361, 29

7 U.S.C. 721, 722, 723

8 STATUTORY AUTHORITY: KRS 151B.185, 151B.195(1), 151B.200

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195(1) requires the Executive

10 Director of the Office of Vocational Rehabilitation to promulgate regulations governing the

11 services and administration of the State Vocational Rehabilitation Agency. KRS 151B.200

12 authorizes the office to comply with federal acts relating to vocational rehabilitation when

13 these acts apply to joint state and federally funded vocational rehabilitation programs. KRS

14 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to

15 promulgate administrative regulations governing services, personnel, and administration of the

16 State Vocational Rehabilitation Agency. This administrative regulation establishes the

17 definitions needed for the provision of rehabilitation services.

18 Section 1. Definitions.

19 (1) "Acute or emergency medical conditions" are accidents or illnesses with sudden onset
20 and relatively short course.

21 (2) "Administrative hearing" is defined by KRS 13B.010(2).

1 (3) "Administrative review" means an informal process through which office personnel not
2 involved in the initial office decision conduct a review of an office decision to ensure the
3 decision complies with office policy.

4 (4) "Assistive technology specialist" means an individual who analyzes the needs of
5 individuals with disabilities, assists in the selection of the appropriate assistive technology, and
6 trains the eligible individual on how to properly use the specific equipment.

7 (5) "Attendant Factors" are factors not directly resulting from a disability that affect the
8 individual's ability to obtain, maintain, or progress in employment.

9 (6) "Case record" means the official written or electronic record of the vocational rehabilitation
10 case of an applicant, potentially eligible, or eligible individual.

11 (7) "Certified driver rehabilitation specialist" means a driver rehabilitation specialist who has
12 obtained certification to provide services from the Association for Driver Rehabilitation
13 Specialists.

14 (8) "Clear and convincing evidence" means a firm belief that a factual contention is highly
15 probable.

16 (9) "Comparable services and benefits" is defined in 34 C.F.R. 361.5(c)(8).

17 (10) "Comprehensive Transition and Postsecondary Program" (CTP) means a program
18 designated by the United States Department of Education under 34 C.F.R. 668.231(a).

19 (11) "Competitive integrated employment" is defined by 34 C.F.R. 361.5(c)(9).

20 (12) "Content tutoring" means instruction to improve performance in a specific course or
21 subject when the academic difficulty is not caused by a disability.

1 (13) "Disability-related tutoring" means tutoring, instruction, or programs specifically
2 designed to address academic limitations that result from a disability and that are necessary for
3 the individual to benefit from training or to achieve the employment outcome.

4 (14) "Driver evaluation" means a clinical and behind-the-wheel evaluation by a certified driver
5 rehabilitation specialist to identify an eligible individual's driver rehabilitation needs to allow
6 that person to drive independently.

7 (15) "Driver training" means behind-the-wheel instruction required to teach an individual with
8 a disability to drive with or without vehicle modifications.

9 (16) "Educational assistance services" means reader services, note-taking assistance, page
10 turning, typing, recording, securing reference materials, or similar support necessary for the
11 individual to participate in training or education programs.

12 (17) "Educational aide" means an approved vendor who provides educational assistance
13 services under this section.

14 (18) "Electronic communication" includes, but is not limited to email, fax, and Short Message
15 Service, and text messaging.

16 (19) "Eligible individual" is defined by 34 C.F.R. 361.5(c)(14).

17 (20) "Employment outcome" is defined by 34 C.F.R. 361.5(c)(15).

18 (21) "Executive director" means the Executive Director of the Office of Vocational
19 Rehabilitation.

20 (22) "Extended driver evaluation" means additional evaluation necessary in those cases in
21 which an individual's ability to drive cannot be determined after a driver evaluation.

22 (23) "Family member" is defined by 34 CFR 361.5(c)(22).

1 (24) “Financial participation” means the amount the eligible individual must pay for cost
2 sharing between the office and the eligible individual for an authorized good or service.

3 (25) “Functional capacity” means the capacity to perform tasks required in employment
4 including:

- 5 (a) Mobility;
- 6 (b) Communication;
- 7 (c) Self-care;
- 8 (d) Self-direction;
- 9 (e) Interpersonal skills;
- 10 (f) Work tolerance; or
- 11 (g) Work skills.

12 (26) “Hearing officer” is defined by KRS 13B.010(5).

13 (27) “Household size” is calculated using the individual’s most recent federal income tax
14 return, and means:

- 15 (a) If the individual is not claimed as a tax dependent for purposes of filing federal taxes,
16 the individual, the individual’s spouse, if legally married, and the individual’s tax
17 dependents; or
- 18 (b) If the individual is claimed as a dependent for purposes of filing federal taxes, the
19 individual, any persons claiming the individual as a dependent, and any other dependents
20 the tax filer claims.

21 (28) “Individual” is a disabled person who is applying, potentially eligible, or eligible for
22 vocational rehabilitation services in Kentucky.

23 (29) “Individual with a disability” is defined by 34 CFR 361.5(c)(27) and 34 CFR 361.5(c)(28).

1 (30) "Individual with a most significant disability" is defined in 34 CFR 361.5(c)(29).

2 (31) "Individual with a significant disability" is defined in 34 CFR 361.5(c)(30).

3 (32) "Individualized plan for employment" means a written plan for a specific employment

4 outcome as required by 34 C.F.R. 361.46.

5 (33) "Informed choice" means the applicant, potentially eligible individual, and eligible

6 individual's right to receive information and support that allows them to make informed

7 decisions about their case throughout the vocational rehabilitation process including but not

8 limited to the choice of service provider as set forth in 34 C.F.R. 361.52.

9 (34) "In state service" means a vocational rehabilitation service that is provided in Kentucky.

10 (35) "Mediation" is defined by 34 C.F.R. 361.5(c)(35).

11 (36) "Non-significant disability" means a disability that does not limit a functional capacity.

12 (37) "Office" means the Office of Vocational Rehabilitation and its staff members who are

13 authorized under state law to perform the functions of the state regarding the state plan and its

14 supplement.

15 (38) "Personal assistance services" is defined by 34 C.F.R. 361.5(c)(38).

16 (39) "Physical or mental impairment" is defined by 34 C.F.R. 361.5(c)(40).

17 (40) "Pre-employment transition services (Pre-ETS)" means the set of early career exploration

18 services identified in 34 C.F.R. 361.48(a)(2).

19 (41) "Post-employment services" is defined by 34 CFR 361.5(c)(41).

20 (42) "Post-secondary education" means academic or vocational training provided by an

21 accredited post-secondary institution, including universities, colleges, community and

22 technical colleges, and proprietary schools which leads to an industry-recognized certificate or

1 certification, a certificate of completion of an apprenticeship, a license recognized by the
2 Commonwealth of Kentucky or federal government, or an associate or baccalaureate degree.

3 (43) "Post-Secondary Transition Program" (PSTP) means a two (2) or three (3) year work-
4 readiness and employment-skills training program operated by a post-secondary institution that
5 is a CTP.

6 (44) "Potentially eligible student" means a student with a disability between the ages of 14 and
7 21 who has not applied for or been determined eligible for vocational rehabilitation services.

8 (45) "Remediation" means instruction intended to address basic educational deficiencies not
9 caused by the individual's disability.

10 (46) "Secretary" means the Secretary of the Education and Labor Cabinet.

11 (47) "Serious limitation" means the individual frequently requires assistance from others,
12 personal adaptations, assistive technology and/or accommodations not typically needed for
13 other workers to participate in employment.

14 (48) "Service fee" means the standard rate of pay established by the office for vocational
15 rehabilitation services and goods.

16 (49) "Service Fee Memorandum" means the document used to communicate the service fees
17 to vendors.

18 (50) "Structural addition" means any improvement to real property that would increase the
19 square footage or footprint of the property.

20 (51) "Student with a disability" means an individual who is 14-21 years of age and is eligible
21 for and receiving special education or related services under the Individuals with Disabilities
22 Education Act or is an individual with a disability for purposes of Section 504 of the
23 Rehabilitation Act.

1 (52) “Substantial impediment to employment” is defined by 34 C.F.R. 361.5(c)(52).

2 (53) “Tutorial services” means individualized instruction provided to improve academic
3 performance or address disability-related barriers to participation in a training or educational
4 program.

5 (54) “Vendor” means a person or entity:

6 (a) The office has determined meets the service provider standards established by the office
7 and has executed a vendor agreement with the office, or
8 (b) From which the office has agreed to purchase goods or services.

9 (55) “Vocational rehabilitation services” is defined by 34 C.F.R. 361.5(c)(57).

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As approved by:

Vickie Wise, Deputy Secretary, Education and Labor Cabinet

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on February 26, 2026, at 1:00 pm, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, KY 40601. 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 February 28, 2026. 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: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, KY 40601, 502-782-2539, brooke.mcdaniel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

781 KAR 1:001E. Definitions.

Contact Person: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, KY 40601

Phone: 502-782-2539

Email: brooke.mcdaniel@ky.gov

Subject Headings: Disability and Disabilities, Workforce Development, Education

Provide a brief summary of:

What this administrative regulation does: This administrative regulation provides the definitions for the operation of the Office of Vocational Rehabilitation (OVR) in compliance with the federal Rehabilitation Act and KRS 151B.180, *et seq.*

The necessity of this administrative regulation: KRS 151B.195 requires OVR to promulgate administrative regulations outlining the administration of vocational rehabilitation services in Kentucky in compliance with the federal Rehabilitation Act and KRS 151B.180, *et seq.*

How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides the required definitions for the regulations which outline the operation of OVR.

How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists individuals seeking services from OVR in understanding the regulations governing the operation of the office.

If this is an amendment to an existing administrative regulation, provide a brief summary of:

How the amendment will change this existing administrative regulation: This is a new regulation which takes the definitions from the other regulations and puts them in one place for consistency and ease of reference.

The necessity of the amendment to this administrative regulation: See above.

How the amendment conforms to the content of the authorizing statute: This regulation conforms to the authorizing statutes by providing the definitions needed.

How the amendment will assist in the effective administration of the statutes: This amendment makes the definitions easier to find and more understandable.

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

List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.

Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: No person or entity is required to take action as a result of this amendment.

In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no new costs to any person or entity.

As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulated individuals will have a better understanding of the other regulations.

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

Initially: No additional costs.

On a continuing basis: No additional costs.

What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Federal vocational rehabilitation funds received by the Office of Vocational Rehabilitation and the required state match funds; however, there are no additional costs as a result of this proposed amendment.

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: There is no increase in fees or funding necessary to implement this amendment to the existing administrative regulation.

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

TIERING: Is tiering applied? Tiering is not required in this administrative regulation because it applies equally to all affected entities.

FISCAL IMPACT STATEMENT

781 KAR 1:001E. Definitions.

Contact Person: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, KY 40601

Phone: 502-782-2539

Email: brooke.mcdaniel@ky.gov

Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: 29 U.S.C. § 721-723; 34 C.F.R. Part 361; KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.

State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This act is authorized by KRS 13B.170, 151B.017(4), 151B.185, 151B.190, 151B.195(1), 151B.200.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Office of Vocational Rehabilitation is the promulgating agency, and no other agencies are affected.

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

Expenditures:

For the first year: None

For subsequent years: None

Revenues:

For the first year: None

For subsequent years: None

Cost Savings:

For the first year: None

For subsequent years: None

(4)(a) Identify affected local entities (for example; cities, counties, fire departments, school districts): No local entities are affected.

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

Expenditures:

For the first year: None

For subsequent years: None

Revenues:

For the first year: None
For subsequent years: None

Cost Savings:

For the first year: None
For subsequent years: None

(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):

Expenditures:

For the first year: None
For subsequent years: None

Revenues:

For the first year: None
For subsequent years: None

Cost Savings:

For the first year: None
For subsequent years: None

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a) and (5)(a): Not applicable.

Fiscal impact of this administrative regulation: None.

Methodology and resources used to reach this conclusion: Not applicable.

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

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

The methodology and resources used to reach this conclusion: Not applicable.