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REGULATIONS COMPILER

1 EDUCATION AND LABOR CABINET

2 Department of Workforce Development

3 Office of Vocational Rehabilitation

4 (Amended After Comments)

5 781 KAR 1:030. Order of selection[ ~~and economic need test for vocational rehabilitation services~~].

6 RELATES TO: KRS 151B.190, 34 C.F.R. 361.36, 361.53, 361.54, 29 U.S.C. 721(a)(5), (15),

7 (21)(A)

8 STATUTORY AUTHORITY: KRS 151B.185(2), (3), 151B.195(1), 29 U.S.C. 709(c), 34 C.F.R.

9 361.36, 361.54

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

11 Director of the Office of Vocational Rehabilitation to promulgate administrative regulations

12 governing the services, personnel, and administration of the State Vocational Rehabilitation

13 Agency. 34 C.F.R. 361.36(c) requires the office to determine, prior to the beginning of each fiscal

14 year, whether to establish and implement an order of selection for state vocational rehabilitation

15 services. 34 C.F.R. 361.36(d) requires federal guidelines for the imposition of an order of selection.

16 [~~34 C.F.R. 361.54(b) authorizes the office to consider an individual's financial need for vocational~~

17 ~~rehabilitation services.~~] This administrative regulation establishes when an order of selection[ ~~and~~

18 ~~an economic need test~~] shall be applied to the provision of vocational rehabilitation services in

19 order to distribute limited funds more equitably over the entire population of otherwise eligible

20 individuals.

21 Section 1. [~~Definitions.~~

1 (1) ~~"Eligible individual" means an individual who has been determined by the office to meet the~~  
2 ~~basic conditions of eligibility for vocational rehabilitation services.~~

3 (2) ~~"Executive director" means Executive Director of the Office of Vocational Rehabilitation.~~

4 (3) ~~"Individual with a most significant disability" means an individual who has a disability that~~  
5 ~~limits two (2) or more areas of functional capacity.~~

6 (4) ~~"Functional capacity" means the capacity to perform tasks required in employment including:~~

7 (a) ~~Mobility;~~

8 (b) ~~Communication;~~

9 (c) ~~Self-care;~~

10 (d) ~~Self-direction;~~

11 (e) ~~Interpersonal skills;~~

12 (f) ~~Work tolerance; or~~

13 (g) ~~Work skills.~~

14 (5) ~~"Office" means the Office of Vocational Rehabilitation, and its appropriate staff members~~  
15 ~~who are authorized under state law to perform the functions of the state regarding the state plan~~  
16 ~~and its supplement.~~

17 (6) ~~"Non-significant disability" means a disability that does not limit a functional capacity.~~

18 ~~Section 2. Economic Need.~~

19 (1) ~~Economic need shall be considered in determining whether to grant vocational rehabilitation~~  
20 ~~services.~~

21 (2) ~~The executive director shall exempt services from the economic needs test if the office is able~~  
22 ~~to provide services to all eligible individuals with significant disabilities pursuant to Section 3 of~~

1 ~~this administrative regulation, with consideration of applicable comparable benefits as provided in~~  
2 ~~34 C.F.R. 361.53.~~

3 ~~(3) An economic needs test as established in subsection (5) of this section shall be applied as a~~  
4 ~~condition for furnishing the following vocational rehabilitation services:~~

5 ~~(a) Physical and mental restoration services;~~

6 ~~(b) Tuition and registration fees for vocational or college training;~~

7 ~~(c) Maintenance other than diagnostic;~~

8 ~~(d) Transportation other than diagnostic;~~

9 ~~(e) Services, other than diagnostic, to members of an individual's family necessary to the~~  
10 ~~adjustment or rehabilitation of the individual with a disability;~~

11 ~~(f) Occupational licenses, tools, equipment, or initial stock (including livestock) or supplies;~~

12 ~~(g) Postemployment services except as provided in subsection (4)(a)-(m) of this section;~~

13 ~~(h) Other goods and services which can reasonably be expected to benefit an eligible individual in~~  
14 ~~terms of employment outcomes;~~

15 ~~(i) Initial vehicle and property modifications in excess of \$10,000;~~

16 ~~(j) Second or subsequent vehicle modifications regardless of cost;~~

17 ~~(k) Vehicle modification repair or upgrades; or~~

18 ~~(l) Hearing aid in excess of \$1,000.~~

19 ~~(4) The following services shall be excluded from an economic needs test:~~

20 ~~(a) Assessment for determining eligibility and vocational rehabilitation needs;~~

21 ~~(b) Counseling and guidance;~~

22 ~~(c) Placement;~~

23 ~~(d) Services provided by staff at state-owned and operated rehabilitation facilities;~~

- 1 ~~(e) Rehabilitation technology except as specifically provided in subsection (3) of this section;~~  
2 ~~(f) Communication assistance in the individual's native language;~~  
3 ~~(g) Books, supplies, tools, or equipment for vocational or other training;~~  
4 ~~(h) Supported employment;~~  
5 ~~(i) Interpreter services for the deaf;~~  
6 ~~(j) Reader services for the blind;~~  
7 ~~(k) Personal assistance services;~~  
8 ~~(l) Tutors, note takers, or assistive technology education aids; or~~  
9 ~~(m) Other training, including driver training, on-the-job training, job coaching, job development,~~  
10 ~~or job training.~~
- 11 ~~(5) The office's economic needs test shall be based on the most current Kentucky Median Adjusted~~  
12 ~~Gross Income developed by the U.S. Department of Commerce. If the individual has a monthly~~  
13 ~~income that exceeds 100 percent of the most current median gross income, the individual shall~~  
14 ~~apply the excess income to rehabilitation services necessary to achieve the employment goal~~  
15 ~~except as provided for in 34 C.F.R. 361.54.~~
- 16 ~~Section 3.]~~ Order of Selection. (1) If the executive director determines that the office's projected  
17 fiscal or personnel resources are insufficient[shall be unable] to provide the full range of services  
18 as required by the Rehabilitation Act of 1973, as amended, to all eligible individuals[applicants],  
19 the office shall inform the Statewide Council and implement the order of selection on a state-wide  
20 basis in compliance with 34 CFR 361[6].36.
- 21 (2)[(1)] An eligible individual previously declared eligible for and receiving vocational  
22 rehabilitation services under an individualized plan for employment shall not be affected if the  
23 office implements an order of selection.

1 ~~[(2) The order of selection shall not regulate the provision of information or referral services].~~

2 (3) On implementation of the order of selection, the office shall continue to accept referrals of and  
3 applications from individuals with disabilities and continue determining eligibility for services.

4 (4) The order of selection shall not impact~~[regulate]~~ the provision of information, referral services,  
5 or authorization of assessment for determining eligibility.

6 (5) ~~[An applicant shall be declared eligible or ineligible as appropriate.~~

7 ~~(6)–~~

8 ~~(a) An eligible individual entering accepted status after implementation of the order of selection~~  
9 ~~shall be assigned to a priority category.~~

10 ~~(b) If the priority category is open, the individual shall be served.~~

11 ~~(c) If the priority category is closed, the individual's case shall be held on a waitlist in accepted~~  
12 ~~status until the priority category assigned is opened or the order of selection is lifted.~~

13 ~~(7) The order of selection shall permit immediate reclassification into a higher priority category if~~  
14 ~~circumstances justify the reclassification.~~

15 ~~(8)] If the office is unable to provide services to all eligible individuals~~~~[with significant~~  
16 ~~disabilities], the office shall first serve [eligible] individuals with the<sup>[a]</sup> most significant disability~~  
17 ~~in the highest open priority category. Within each priority category, individuals shall be served in~~  
18 ~~order of application date~~ [first and then serve eligible individuals with a significant disability on a  
19 first-applied, first-served basis, as established by the date of application within a category. If funds  
20 become available, the executive director and Statewide Council for Vocational Rehabilitation shall  
21 adjust the priority categories to be served as appropriate to provide services to as many consumers  
22 as funds allow].

1 ~~(6)~~~~(9)~~ The order of selection established in this section shall be followed with the categories to  
2 be served designated at the time of implementation.

3 (7) The executive director may serve individuals from the waitlist, open, or close one or more  
4 priority categories as appropriate, to provide services to as many individuals as funds allow.

5 ~~[(10) The order of selection shall have priority categories as follows:~~

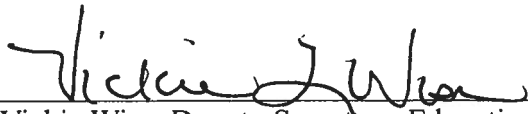
6 ~~(a) Priority Category I—eligible individuals with a most significant disability that limits three (3)~~  
7 ~~or more functional capacities;~~

8 ~~(b) Priority Category II—eligible individuals with a most significant disability that limits two (2)~~  
9 ~~functional capacities;~~

10 ~~(c) Priority Category III—eligible individuals with a significant disability that limits (1) one~~  
11 ~~functional capacity;~~

12 ~~(d) Priority Category IV—Eligible individuals with a non-significant disability.]~~

As approved by:



Vickie Wise, Deputy Secretary, Education and Labor Cabinet

4-15-2026

Date

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

781 KAR 1:030. Order of Selection.

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](mailto:brooke.mcdaniel@ky.gov)

Subject Headings: Disability and Disabilities, Workforce Development, Education

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation outlines the requirements for the determination of eligibility for the receipt of goods and services from the Office of Vocational Rehabilitation (OVR) in compliance with the federal Rehabilitation Act and KRS 151B.180, *et seq.*, specifically the order of selection regarding priority categories.

(b) The necessity of this administrative regulation: This administrative regulation is required to implement order of selection as required by 29 U.S.C. 721(a)(5), 34 CFR § 361.36.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation ensures order of selection is compliant with 29 U.S.C. 721(a)(5) and 34 CFR § 361.36.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation outlines the requirements for the implementation of order of selection as mandated by 29 U.S.C. 721(a)(5) and 34 CFR § 361.36.

(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 proposed amendment changes the definitions for the priority categories to bring them into compliance with federal law, specifically 29 U.S.C. 721(a)(5) and 34 CFR § 361.36.

(b) The necessity of the amendment to this administrative regulation: Changes to the regulations are required to ensure compliance with 29 U.S.C. 721(a)(5) and 34 CFR § 361.36.

(c) How the amendment conforms to the content of the authorizing statute: This amendment brings Kentucky's priority categories into compliance with federal law.

(d) How the amendment will assist in the effective administration of the statutes: This amendment is required to ensure Kentucky's priority categories are compliant with federal law.

(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: The approximately 46,000 individuals served by the Office of Vocational Rehabilitation.

(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: This administrative regulation does not require action by any entity or individual. It merely sets forth the guidelines for implementation of order of selection.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation does not grant benefits; it establishes the requirements for implementation of order of selection.

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

(a) Initially: No additional costs.

(b) On a continuing basis: No additional costs.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal vocational rehabilitation funds and state match funds received by the Office of Vocational Rehabilitation.

(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: There is no increase in fees or funding necessary to implement this proposed amendment.

(9) 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.

(10) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all affected individuals.

## FISCAL IMPACT STATEMENT

781 KAR 1:030. Order of Selection.

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](mailto:brooke.mcdaniel@ky.gov)

Subject Headings: Disability and Disabilities, Workforce Development, Education

(1) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 13B.170, 151B.017, 151B.185, 151B.190, 151B.195, 151B.200; 29 U.S.C. 721(a)(5); 34 C.F.R. 361.36.

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

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

1. Expenditures:  
For the first year: None  
For subsequent years: None
2. Revenues:  
For the first year: None  
For subsequent years: None
3. 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):

1. Expenditures:  
For the first year: None  
For subsequent years: None
2. Revenues:

For the first year: None  
For subsequent years: None

3. 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):

1. Expenditures:  
For the first year: None  
For subsequent years: None
2. Revenues:  
For the first year: None  
For subsequent years: None
3. 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.

(a) Fiscal impact of this administrative regulation: None.

(b) 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):

(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.

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

STATEMENT OF CONSIDERATION RELATING TO  
781 KAR 1:030  
Education and Labor Cabinet  
Office of Vocational Rehabilitation  
(Amended After Comments)

I. The public hearing on 781 KAR 1:030, scheduled for March 24, 2026, at 11:00 a.m. EST, was canceled. Written comments were received during the public comment period.

II. The following people submitted written comments:

Name, Title, and Agency/Organization/Entity/Other

Stacy Coontz, Senior Staff Attorney, Kentucky Protection & Advocacy  
Susie Edwards, Office of Vocational Rehabilitation

III. The following person from the promulgating administrative body responded to the written comments received during the public comment period:

Name and Title

Brooke McDaniel, Administrative Specialist Senior, Education and Labor Cabinet,  
Office of Vocational Rehabilitation

IV. Summary of Comments and Responses

(1) Subject Matter: Section 1, Typographical correction of federal citation.

(a) Comment:

Susie Edwards, Office of Vocational Rehabilitation – The commentator noted the regulation in Section 1(1) references 34 C.F.R. 366.36, which does not exist, and suggested that the intended citation was 34 C.F.R. § 361.36.

(b) Response:

The agency agrees to amend Section 1(1) to correct the typographical error in the citation.

(2) Subject Matter: Waitlist Provisions.

(a) Comment:

Susie Edwards, Office of Vocational Rehabilitation – The commentator recommended that the regulation clarify procedures governing the management of the waitlist under the Order of Selection (OOS), including periodic contact with individuals on the waitlist and the process for removing individuals who no longer wish to receive services or who do not respond to outreach from the office which assist staff and individuals in understanding how continued interest in services will be confirmed and how individuals may reapply if removed from the waitlist.

(b) Response:

The agency reviewed the regulation and determined that it should not be amended at this time without further review and discussion.

(2) Subject Matter: Incorporation of OVR policy manual.

(a) Comment:

Stacy Coontz, Senior Staff Attorney, Kentucky Protection & Advocacy – The commentor recommended incorporating the OVR Policy and Procedures Manual by reference into the administrative regulation.

(b) Response:

The agency reviewed the comments and determined that incorporation of the OVR Policy and Procedures Manual is not necessary. The administrative regulation establishes the governing legal standards for administration of the vocational rehabilitation program. The Policy and Procedures Manual contains internal procedures and implementation guidance used by the agency to administer the program. Incorporating the Policy and Procedures Manual by reference would require the document to be filed and maintained in accordance with KRS 13A.222 and would require regulatory amendments whenever operational procedures are updated.

V. Summary of Statement of Consideration and Action Taken by Promulgating Administrative Body:

The public hearing on this administrative regulation was canceled; however, written comments were submitted during the public comment period. The agency reviewed and responded to the comments received. As a result of the comments and subsequent agency review, amendments have been made to the administrative regulation as reflected in this Statement of Consideration.