


Statement of Emergency

16 KAR 9:110 E

This emergency administrative regulation is being promulgated in order to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute. During the 2022 legislative session, the General Assembly passed House Bill 277 and the Governor signed it into law on April 8, 2022. This legislation, which is slated to become effective on July 14, 2022, amends KRS 161.048 to create the Option 9 alternative route to certification and gives the Education Professional Standards Board (EPSB) the authority to promulgate administrative regulations establishing the standards and procedures for the route. As there are only ninety-seven (97) days between the Governor signing this bill into law and its effective date, the ordinary administrative regulation process would not allow the EPSB time to promulgate an ordinary administrative regulation to be effective when the statutory change goes into effect. Therefore, the emergency regulation is necessary to establish the requirements for the Option 9 alternative route to certification when the statutory amendment goes into effect. This emergency administrative regulation will be replaced by an ordinary administrative regulation because the Option 9 alternative route is expected to remain in statute. The ordinary administrative regulation is identical to this emergency administrative regulation.


Andy Beshear, Governor


Justin Mitchell, Chair
Education Professional Standards Board

1 EDUCATION AND LABOR CABINET

2 Education Professional Standards Board

3 (New Emergency Administrative Regulation)

4 16 KAR 9:110 E. Expedited Route to Certification.

5 RELATES TO: KRS 161.028, 161.030, 161.048

6 STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048 directs the Education Profes-
8 sional Standards Board (EPSB) to adopt administrative regulations establishing standards and proce-
9 dures for the alternative routes to certification. This administrative regulation establishes the standards
10 and procedures of the Option 9 expedited route to certification.

11 Section 1. Route Providers. (1) Expedited routes to certification shall be provided by a Kentucky
12 public school district or group of districts in partnership with a college or university with an accredited
13 educator preparation provider (EPP) recognized by the EPSB.

14 (2) The expedited route program shall only include the EPP's existing undergraduate initial certifi-
15 cation educator preparation programs approved by the EPSB.

16 (3) Providers shall submit an application to the EPSB that includes:

17 (a) An agreement between the district or group of districts and the EPP to collaborate on the expe-
18 dited route program.

19 (b) An understanding between the district and EPP that the expedited route program shall not nega-
20 tively impact the accreditation of the EPP.

21 (c) Contact information for the EPP leader and the district or group of districts leader.

1 (d) Description of when the expedited route program is offered, the method of delivery and the cer-
2 tification areas included.

3 (e) A process to maintain regular communication between the employing school and EPP so that
4 the EPP and employing school may assist the resident as needed and address identified areas of im-
5 provement.

6 (f) Explanation of how the district or group of districts in cooperation with the EPP shall address the
7 program requirements contained in Sections 2, 3 and 4 of this administrative regulation.

8 Section 2. Residency. (1) All candidates for the expedited route to certification shall meet the ad-
9 mission requirements established in 16 KAR 5:020.

10 (2) Candidates shall be employed in a classified position with the district while completing course-
11 work from the EPP expedited route program.

12 (3) A resident shall not have responsibility for the supervision or instruction of P-12 students with-
13 out the direct supervision of a certified educator.

14 (4) The district in consultation with the EPP shall ensure that the resident receives training on the
15 Professional Code of Ethics for Kentucky School Certified Personnel established in 16 KAR 1:020.

16 (5) The resident shall adhere to the Professional Code of Ethics for Kentucky School Certified Per-
17 sonnel established in 16 KAR 1:020.

18 (6) The district shall provide coaching and mentoring of the resident throughout the program.

19 (7) If the district terminates the resident from classified employment, the EPP may transfer the resi-
20 dent to a traditional preparation program but the resident shall no longer be enrolled in the expedited
21 route.

22 (8) Students wishing to transfer from another route to the expedited route shall be in good standing
23 with their EPP.

1 (9) Students transferring to the expedited route shall be required to complete the field experience
2 and student teaching outlined in Sections 3 and 4 of this administrative regulation.

3 Section 3. Field Experience. (1) During the first two (2) years of the residency, the district shall en-
4 sure that the candidate shall complete a minimum of two hundred (200) clock hours of field experienc-
5 es in a variety of primary through grade 12 school settings which allow the candidate to participate in
6 the following:

7 (a) Engagement with diverse populations of students which include:

- 8 1. Students from a minimum of two (2) different ethnic or cultural groups of which the candi-
9 date would not be considered a member;
- 10 2. Students from different socioeconomic groups;
- 11 3. English language learners;
- 12 4. Students with disabilities; and
- 13 5. Students from across elementary, middle school, and secondary grade levels;

14 (b) Observation in schools and related agencies, including:

- 15 1. Family Resource Centers; or
- 16 2. Youth Service Centers;

17 (c) Student tutoring;

18 (d) Interaction with families of students;

19 (e) Attendance at school board and school-based council meetings;

20 (f) Participation in a school-based professional learning community; and

21 (g) Opportunities to assist teachers or other school professionals.

22 (2) The district shall maintain and share with the EPP electronic records that confirm all residents
23 have fulfilled the field experiences required in subsection (1) of this section.

1 Section 4. Student Teaching. (1) During the third year of the residency, the district shall provide
2 opportunities for the student teacher to assume major responsibility for the full range of teaching du-
3 ties, including extended co-teaching experiences, in a real school situation under the guidance of quali-
4 fied personnel from the district and EPP. The EPP and the school district shall make reasonable efforts
5 to place residents in settings that provide opportunities for the resident to develop and demonstrate the
6 practical skills, knowledge, and professional dispositions essential to help all P-12 students learn and
7 develop.

8 (2) The resident shall be placed in a setting that is consistent with his or her planned certification
9 content and grade range.

10 (3) The placement shall provide the resident with the opportunity to engage with diverse popula-
11 tions of students.

12 (4) The third year of residency shall be in instructional settings that correspond to the grade levels
13 and content areas of the resident's certification program. Specifically:

14 (a) Residents pursuing a primary through grade 12 certificate shall have their student teaching
15 balanced between an elementary school placement and middle school or high school place-
16 ment.

17 (b) Residents pursuing an elementary certificate shall have their student teaching balanced be-
18 tween a placement in primary through grade 3 and a placement in grade 4 or grade 5.

19 (c) Residents seeking dual certification in either middle school or secondary content areas shall
20 have equal placements in both content areas.

21 (5) The district shall place the resident with a cooperating teacher or teachers who have:

22 (a) A valid teaching certificate or license for each grade and subject taught;

23 (b) At least three (3) years of teaching experience as a certified educator; and

1 (c) Completed the cooperating teacher training in Section 1 of 16 KAR 5:040.

2 (6) A teacher assigned to a teaching position on the basis of a provisional or emergency certificate
3 issued by the EPSB shall not be eligible for serving as a cooperating teacher.

4 (7) The district or group of districts shall share with the EPP and file an electronic report with the
5 EPSB which identifies the following:

6 (a) Each resident completing the third year;

7 (b) The resident's assigned school;

8 (c) The cooperating teacher assigned to each resident;

9 (d) The cooperating teacher's area of certification;

10 (e) The cooperating teacher's years of experience as a certified or licensed educator.

11 (8) The EPP shall assign a supervisor to the third-year resident. The supervisor shall conduct a min-
12 imum of four (4) observations of the resident in the actual teaching situation.

13 (9) The observations may be remote.

14 (10) The observation reports shall be filed as a part of the student teacher record and used as a vali-
15 dation of the supervisory function.

16 (11) The EPP supervisors shall be available to work with the resident and personnel in the district
17 regarding any problems that may arise relating to the student teaching situation.

18 (12) The EPP supervisors shall complete the university supervisor training in Section 4 of 16 KAR
19 5:040.

20 (13) The district shall maintain and share with the EPP electronic records that confirm that all third-
21 year residents meet the requirements of this section.

22 Section 5. Application Review. (1) Applications to provide an expedited route to certification shall
23 be submitted to EPSB staff.

1 (2) EPSB staff shall complete an initial review to ensure that the application addresses the require-
2 ments of KRS 161.048(10) and this administrative regulation.

3 (a) If EPSB staff determines that the application addresses the requirements, it shall be forwarded to
4 the EPSB for review at an EPSB meeting.

5 (b) If EPSB staff determines that the application does not address all the requirements, staff shall
6 notify the provider of the deficiencies.

7 (2) The EPSB shall review the application, shall approve or deny each application, and shall trans-
8 mit the decision and rationale for the decision to the provider.

9 (3) The provider may revise and resubmit a plan that has been denied.

10 (4) Any approval granted by the EPSB shall specify the period of approval, which shall not exceed
11 three (3) years for initial approval. Providers may apply for an extension of approval as outlined in
12 Section 6 of this administrative regulation.

13 Section 6. Continuance of Program Approval. (1) An expedited route provider may apply for con-
14 tinuance of an approved expedited route program for an additional period of time not to exceed seven
15 (7) years. The request for continuance shall specify any changes in program components that have oc-
16 curred since the program received prior EPSB approval and that are planned for implementation in
17 subsequent training periods.

18 (2) The request for continuance shall provide specific examples of demonstrating program quality.
19 The request for continuance shall set forth statistical information related to teacher retention for all pri-
20 or candidates who have completed the program. Standards for program approval and program quality
21 specified under this administrative regulation shall be maintained under any program extension.

22 Section 7. Revocation for Cause. (1) If an area of concern or an allegation of misconduct arises after
23 approval, staff shall bring a complaint to the EPSB for initial review.

1 (2) After review of the allegations in the complaint, the EPSB may refer the matter for further in-
2 vestigation.

3 (3)(a) Notice of the EPSB's decision to refer the matter and the complaint shall be sent to the pro-
4 vider.

5 (b) Within thirty (30) days of receipt of the complaint, the provider shall respond to the allegations
6 in writing and provide evidence pertaining to the allegations in the complaint to the EPSB.

7 (4)(a) Staff shall review any evidence supporting the allegations and any information submitted by
8 the provider.

9 (b) Staff may conduct on-site evaluations to evaluate the quality of the programs.

10 (c) Upon completion of the review, staff shall issue a report recommending to the EPSB continued
11 approval of the expedited route program or revocation of the expedited route program if it no longer
12 meets the standards and requirements for approval.

13 (5) The provider shall receive a copy of staff's report and may file a response to the recommenda-
14 tion.

15 (6)(a) The recommendation from staff and the provider's response shall be presented to the EPSB.

16 (b) The EPSB shall consider the report and the provider's response and make a final determination
17 regarding the approval of the institute.

18 Section 8. Appeals Process. (1) If a provider seeks appeal of an EPSB decision, the provider shall
19 appeal within thirty (30) days of receipt of the EPSB official notification. A provider shall appeal on
20 the grounds that:

21 (a) A prescribed standard was disregarded;

22 (b) A procedure was not followed; or

23 (c) Evidence of compliance in place at the time of the review and favorable to the provider was

1 not considered.

2 (2) An appeals panel of no fewer than three (3) members shall be appointed by the EPSB chair
3 from members of the EPSB who do not have a conflict of interest regarding the provider or program.
4 The ad hoc committee shall recommend action on the appeal to the full EPSB.

5 (3) The consideration of the appeal shall be in accordance with KRS Chapter 13B.

6 Section 9. Data Reports. (1) The EPSB shall maintain data reports related to the following:

7 (a) Approval status of all EPSB approved expedited route programs;

8 (b) Contact information for the person responsible for the expedited route program;

9 (c) Year of last program review;

10 (d) Tables relating the program total enrollment disaggregated by ethnicity and gender for the last
11 three (3) years;

12 (e) Tables relating the program faculty disaggregated by the number of full-time equivalents (FTE),
13 ethnicity, and gender for the last three (3) years;

14 (f) Table of the number of program completers for the last three (3) years;

15 (g) Table relating pass rates on the required assessments;

16 (h) Table relating program completer satisfaction with the preparation program; and

17 (i) Table relating new teacher (under three (3) years) and supervisor satisfaction with the prepara-
18 tion program.

19 (2) Providers shall report to the EPSB staff at the end of each school year continuous improvement
20 efforts relating to the expedited route program.

21 Section 10. Professional Certificate. (1) Upon completion of all program requirements of the expe-
22 dited route, and compliance with the assessment requirements established in 16 KAR 6:010, the resi-
23 dent may apply for the professional certificate.

1 (2) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and verification
2 that a candidate has met all eligibility requirements for certificate issuance, the EPSB shall issue the
3 candidate a professional certificate.

7-6-22
Date

Justin Mitchell
Justin Mitchell, Board Chair
Education Professional Standards Board

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on August 22, 2022, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. 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 August 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

16 KAR 9:110 E

Contact Person: Todd Allen, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the standards and procedures of the Option 9 expedited route to certification.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the standards and procedures for the Option 9 expedited route to certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.048(10) creates the Option 9 alternative route to certification and KRS 161.048(1)(e) requires the Education Professional Standards Board to promulgate administrative regulations establishing standards and procedures for the alternative certification options.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the requirements for providing an Option 9 alternative route to certification program as well as the requirements for candidates of the route to obtain certification.

(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:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 171 Kentucky school districts, 31 Institutions of Higher Education with and approved educator preparation program, and applicants for certification.

(4) 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: School districts and educator preparation providers will have to meet the requirements of this regulation and apply to the Education Professional Standards Board to be approved to offer Option 9 programs. Candidates of this route will have to complete the program requirements and apply to the Education Professional Standards Board for Certification upon completion.

(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 fee established by the Education Professional Stand-

ards Board in this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants to provide a Option 9 program will meet the requirements for approval by the Education Professional Standards Board. Candidates for this route will have access to high quality programs.

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

(a) Initially: The initial cost to implement this regulation will be the implementation of the route, training for staff on the standards and requirements for this new route, and the time and resources for processing and reviewing the applications to provide an Option 9 program. As this is a new route, we are unable to determine the number of applications that will be received.

(b) On a continuing basis: The continuing cost to implement this regulation will be the staff time and resources for processing applications to provide an Option 9 program and applications for certification from program completers. This is a new route, and it is unknown how many applications will be received.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General Fund and certification fees collected pursuant to 16 KAR 4:040.

(7) 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: At this time, it is not expected that an increase in fees or funding will be necessary for the Education Professional Standards Board to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Certification fees are established by 16 KAR 4:040. No additional fees are established by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation.

FISCAL NOTE

16 KAR 9:110 E

Contact Person: Todd Allen, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Education Professional Standards Board, public-school districts, and public institutions of higher education with approved educator preparation programs.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.028, KRS 161.030, KRS 161.048.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This will not generate any revenue for the Education Professional Standards Board in the first year. This will not generate revenue for participating school districts but may generate revenue in the form of tuition for participating institutions of higher education.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Each applicant for certification through this route will have to pay the certification fee established in 16 KAR 4:040. This is a new route, so it is unknown how many applications will be received through it. Certification fees are a part of the Education Professional Standards Board's restricted funds, that in accordance with KRS 161.028 (1)(m) can be used towards the costs of issuance, reissuance, and renewal of certificates, and the costs associated with disciplinary action against a certificate holder. In subsequent years, this will not generate revenue for participating school districts but may generate revenue in the form of tuition for participating institutions of higher education.

(c) How much will it cost to administer this program for the first year? For the first year, cost will be the implementation of the route, training for staff on the standards and requirements for this new route, and the time and resources for processing and reviewing the applications to provide an Option 9 program. As this is a new route, we are unable to determine the number of applications that will be received. There will also be development costs for the school districts and institutions of higher education. Those costs are not established by this regulation but are inherent in the statutory requirements of the route.

(d) How much will it cost to administer this program for subsequent years? For the subsequent years, the cost will be the staff time and resources for reviewing applications to offer an Option 9 program, overseeing the continuous review of providers, processing the applications for certification from route completers and issuing certificates. This will vary depending on the number of applica-

tions and certificates, and as this is a new route, we are unable to determine that number. There will also be ongoing costs to the districts to provide mentoring and support to candidates and to the institutions of higher education to offer the needed courses. These costs are not established by this administrative regulation but are inherent in the statutory requirements of the route.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: At this time, it is unknown how many future educators will pursue this route. Applicants will be required to pay the certification fee established in 16 KAR 4:040. The certification fees collected for these applications will offset the costs of issuance. However, there will be costs to the Education Professional Standards Board for the development and oversight of this route prior to receipt of certification fees. There will also be costs to school districts and institutions of higher education wishing to participate in this route; however, those costs are not created by this regulation but are inherent to the route and its statutory requirements.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? None anticipated.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? None anticipated.

(c) How much will it cost the regulated entities for the first year? There will be initial costs to school districts and institutions of higher education wishing to participate in this route; however, those costs are not created by this regulation but are inherent to the route and its statutory requirements.

(d) How much will it cost the regulated entities for subsequent years? There will be costs to school districts and institutions of higher education wishing to participate in this route; however, those costs are not created by this regulation but are inherent to the route and its statutory requirements.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] There is not an expected major economic impact from this regulation as it does not create costs for the Education Professional Standards Board or the regulated entities.