

1 PERSONNEL CABINET

2 (Amendment)

3 101 KAR 2:230. Kentucky Employee Mediation and Workplace Resolution Programs.

4 RELATES TO: KRS 18A.030(2)(i), 18A.110

5 STATUTORY AUTHORITY: KRS 18A.110(7)(h) [~~18A.110(7)(i)~~]

6 NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(7)(h) requires [~~18A.110~~

7 ~~authorizes~~] the Secretary of Personnel to promulgate administrative regulations that

8 develop programs to improve the work effectiveness of state employees. This

9 administrative regulation establishes the operational procedures for the Kentucky

10 Employee Mediation and Workplace Resolution Programs.

11 Section 1. Establishment of the Kentucky Employee Mediation Program (KEMP).

12 (1) The Personnel Cabinet shall establish and administer the Kentucky Employee

13 Mediation Program to coordinate mediations [~~and the State Government Mediator Pool,~~

14 ~~as established in subsection (4) of this section, in state agencies and provide them with~~

15 ~~additional services~~]. The Kentucky Employee Mediation Program shall establish and

16 maintain the State Government Mediator Pool to have qualified mediators readily

17 available as needed.

18 (2) Eligibility for services.

19 (a) An employee or supervisor may request mediation services through the Kentucky

20 Employee Mediation Program in order to resolve workplace issues. The request shall be

21 made using the Kentucky Employee Mediation Program Referral Form [Mediation

Request Form].

(b) Participation by all parties involved in the mediation sessions shall be voluntary. Each party shall sign an agreement to mediate and the original, signed agreement shall be kept in the mediation file.

(c) Employees shall be entitled to obtain mediation services without interference, coercion, or reprisal.

(d) Participation in mediation sessions shall not require the use of accrued leave time if the employee has obtained prior approval of the supervisor or appointing authority.

(e) Participation in mediation shall not preclude an agency from taking disciplinary or corrective action as needed in dealing with job behavior or job performance problems.

(f) Participation in a mediation shall not affect the filing timeframes for a grievance with the cabinet or agency or on appeal with the Personnel Board.

(3) Mediation session procedures.

(a) Mediation sessions shall be conducted by mediators in the State Government Mediator Pool who do not work in the participant's employing agency.

(b) Mediation sessions shall be scheduled by the Kentucky Employee Mediation Program after receipt of the request to participate at a time convenient for all participants.

(c) The Kentucky Employee Mediation Program shall provide the participants with the names of all mediators assigned to the session. The participants may request another mediator if the appointed mediator has a conflict of interest.

(d) The participants shall ensure that all parties who have the authority to approve and implement the final mediation agreement are present at the mediation. Mediations may be terminated if all necessary parties are not in attendance.

1 (e) For mediations originating as referrals from the Kentucky Personnel Board, the parties
2 may submit a confidential written statement of the case to the mediator no later than three
3 (3) workdays prior to the scheduled mediation. The written statement shall be no more
4 than 500 words. The written statement will be considered a confidential communication
5 with the mediator and shall not be shared with the other party and shall not be subject to
6 disclosure in any subsequent proceedings regarding the mediated matter, except as may
7 be required by state and federal law.

8 (f) [(e)] Participation in mediation shall constitute an agreement by the parties that all
9 offers of compromise, promises and statements made during [~~in the course of~~] the
10 mediation session shall not be offered as evidence or argument at any subsequent
11 hearing or trial of the subject matter of the dispute.

12 (g) [(f)] All mediation communications, including documents, communicated during the
13 mediation process [~~The content of the mediation sessions~~] shall remain confidential as
14 permitted by state and federal law.

15 (h) The mediation shall not be recorded.

16 (i) [(g)] All contents of the official mediation file, including original, signed final
17 agreements, shall be the property of the Kentucky Employee Mediation Program.

18 (j) [(h)] Certified mediators shall not be subject to participation in any subsequent
19 proceedings regarding the mediated matter.

20 (k) [(i)] The Kentucky Employee Mediation Program or the mediator may decline the
21 request for mediation for reasonable cause, issue a continuance of the mediation, or
22 terminate a mediation session.

23 (l) [(j)] Final mediation agreements shall be reduced to writing and signed by the mediator

and participants.

(m) ~~[(k)]~~ All final mediation agreements or reports from mediations referred by the Personnel Board shall be filed with the board by the Kentucky Employee Mediation Program.

(n) ~~[(h)]~~ The Kentucky Employee Mediation Program shall not oversee compliance with final mediation agreements.

(o) ~~[(m)]~~ Upon request and following the conclusion of the mediation session, the Kentucky Employee Mediation Program may provide written confirmation of participation to the participant's supervisors or appointing authority.

(4) State Government Mediator Pool.

(a) The Kentucky Employee Mediation Program shall establish and provide oversight for the State Government Mediator Pool including training, certification, and technical assistance services.

(b) The State Government Mediator Pool shall consist of state government employees who volunteer to serve and who have been certified by the Kentucky Employee Mediation Program.

(c) The Kentucky Employee Mediation Program shall establish specific certification criteria based on completion of the following:

1. Minimum of fifty (50) hours of general mediation training, to include classroom training, mediation observation, mediation participation, or professional continuing education as approved by the program manager;
2. Minimum of six (6) hours of continuing education per year; and
3. Compliance with the Kentucky Employee Mediation Program's Standards of

Professional Conduct.

(d) The Kentucky Employee Mediation Program shall not certify any person as a mediator if the criteria of paragraph (c) of this subsection are not met.

(e) A mediator may use state time to conduct mediation sessions with the approval of the appointing authority. The mediator's employing agency shall pay travel expenses in accordance with the provisions of 200 KAR 2:006.

(f) The Kentucky Employee Mediation Program shall maintain a current listing of certified state government mediators.

Section 2. Establishment of the Kentucky Employee Workplace Resolution Program.

(1) The Personnel Cabinet shall establish and administer the Kentucky Employee Workplace Resolution Program to improve the work effectiveness of state employees.

(2) Eligibility for services.

(a) An employee in a supervisory or managerial role may request workplace resolution services for their section, branch, or division. The request shall be made to the Workplace Resolution Program by email.

(b) Participation by all parties in the Workplace Resolution Program shall be voluntary.

(c) Employees shall be entitled to participate in workplace resolution services without interference, coercion, or reprisal.

(d) Participation in workplace resolution sessions shall not require the use of accrued leave time if the employee has obtained prior approval of the supervisor or appointing authority.

(e) Participation in workplace resolution shall not preclude an agency from taking disciplinary or corrective action as needed in dealing with job behavior or job performance

problems.

(f) Participation in workplace resolution shall not affect the filing timeframes for a grievance with the cabinet or agency or an appeal with the Personnel Board.

(3) Workplace resolution session procedures.

(a) Workplace resolution sessions shall be conducted by mediators in the State

Government Mediator Pool [~~as set forth in Section 1(4)(b) of this administrative~~

~~regulation,~~] who do not work in the participant's employing agency.

(b) A mediator may use state time to conduct workplace resolution sessions with the

approval of the appointing authority. The mediator's employing agency shall pay travel

expenses in accordance with the provisions of 200 KAR 2:006.

(c) Workplace resolution sessions shall be scheduled by the Workplace Resolution

Program after receipt of the request for the service and confirmation of agreement to

participate at a time convenient for all participants.

(d) All parties who have the authority to approve and implement any recommendations

shall participate in the process.

(e) The content of the workplace resolution sessions shall remain confidential as

permitted by state and federal law.

(f) All contents of the workplace resolutions file shall be the property of the Workplace

Resolution Program.

(g) Certified mediators shall not be subject to participation in any subsequent proceedings

regarding the matter that is the subject of workplace resolution sessions.

(h) The Workplace Resolution Program or the mediator may decline the request for

workplace resolution for reasonable cause, issue a continuance of the workplace

1 resolution proceedings, or terminate a workplace resolution session.

2 (i) The Workplace Resolution Program shall not oversee compliance of any final
3 workplace resolution program recommendations, and any workplace resolution program
4 recommendations are optional and not mandatory.

5 (j) Upon request and following the conclusion of any workplace resolution session, the
6 Workplace Resolution Program may provide written confirmation of participation to the
7 participant's supervisors or appointing authority.

8 Section 3. Incorporation by Reference.

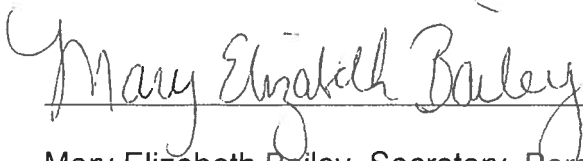
9 (1) The following material is incorporated by reference:

10 (a) "Kentucky Employee Mediation Program Referral Form", January 2025 [~~"Mediation~~
11 ~~Request Form", June 2019~~]; and

12 (b) "KEMP Standards of Professional Conduct", January 2025 [~~February 2008~~].

13 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
14 law, at Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601,
15 Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is
16 also available on the Personnel Cabinet's Web site at:
17 <https://personnel.ky.gov/Pages/mir.aspx>.

APPROVED: 8/13/2025

A handwritten signature in cursive script, reading "Mary Elizabeth Bailey", written over a horizontal line.

Mary Elizabeth Bailey, Secretary, Personnel Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2025, at 10:00 a.m. at 501 High Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays 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 cancelled. 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 October 31, 2025. 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: Rosemary Holbrook, Assistant General Counsel, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone: (502) 564-7430, fax: (502) 564-0224, email: RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

101 KAR 2:230

Contact Person: Rosemary Holbrook

Phone: (502) 564-7430

Email: RosemaryG.Holbrook@ky.gov

Subject Headings: Appeals and Hearings, Personnel, State Employees

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the operational procedures for the Kentucky Employee Mediation and Workplace Resolution Programs.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the operational procedures for the Kentucky Employee Mediation and Workplace Resolution Programs.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.110(7)(h) requires the Secretary of Personnel to promulgate administrative regulations that develop programs to improve the work effectiveness of state employees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation ensures the consistent administration of the Kentucky Employee Mediation and Workplace Resolution Programs, two programs meant to improve the work effectiveness of state employees.

(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 regulation is amended to update and clarify mediation program requirements. Specifically, the Kentucky Employee Mediation Program is tasked with management of the mediator pool; clarification is provided for termination of a mediation if all necessary parties are not present; a provision is added for submission of written statements for mediations referred by the Personnel Board; and edits are made to emphasize confidentiality of mediations. In addition, material incorporated by reference is updated to change the title of the mediation referral form and adjust document formatting.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update and clarify mediation program

requirements.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 18A.110(7)(h) requires the Secretary of Personnel to promulgate administrative regulations that develop programs to improve the work effectiveness of state employees.

(d) How the amendment will assist in the effective administration of the statutes: This amendment ensures the consistent administration of the Kentucky Employee Mediation Program, a program meant to improve the work effectiveness of state employees.

(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: All KRS Chapter 18A agencies and their employees are affected.

(5) 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:

(a) 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 additional action is required.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, is not anticipated to generate any new or additional costs.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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: This regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(9) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any new or additional fees.

(10) TIERING: Is tiering applied? No. This administrative regulation treats all impacted entities the same.

FISCAL IMPACT STATEMENT

101 KAR 2:230

Contact Person: Rosemary Holbrook

Phone: (502) 564-7430

Email: RosemaryG.Holbrook@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.110(7)(h)

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: The most recent act that expressly authorizes the Personnel Cabinet Secretary in KRS 18A.110 to promulgate comprehensive administrative regulations for the KRS Chapter 18A Classified Service is 2023 KY. Acts ch. 35, sec 6; prior acts related to KRS 18A.110 date back to 1960.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Personnel Cabinet is the promulgating agency. All KRS Chapter 18A agencies and their employees are affected.

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

1. Expenditures:

For the first year: Not applicable for this amendment.

For subsequent years: Not applicable for this amendment.

2. Revenues:

For the first year: Not applicable for this amendment.

For subsequent years: Not applicable for this amendment.

3. Cost Savings:

For the first year: Not applicable for this amendment.

For subsequent years: Not applicable for this amendment.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): None

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

1. Expenditures:

For the first year: Not applicable for this amendment.

For subsequent years: Not applicable for this amendment.

2. Revenues:

For the first year: Not applicable for this amendment.

For subsequent years: Not applicable for this amendment.

3. Cost Savings:

For the first year: Not applicable for this amendment.

For subsequent years: Not applicable for this amendment.

(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: Not applicable

For subsequent years: Not applicable

2. Revenues:

For the first year: Not applicable

For subsequent years: Not applicable

3. Cost Savings:

For the first year: Not applicable

For subsequent years: Not applicable

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal impact of this administrative regulation: This administrative regulation does not have a significant fiscal impact.

(b) Methodology and resources used to reach this conclusion: The provisions of this administrative regulation were reviewed, and a significant fiscal impact was not identified.

(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): An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The provisions of the administrative regulation were reviewed, and a significant fiscal impact was not identified.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The Kentucky Employee Mediation Program Referral Form, January 2025, is a one-page form used by a prospective party to request mediation. KEMP Standards of Professional Conduct, January 2025, is a one-page document used as part of the mediator certification process.

The amendment to the mediation form includes a title change and formatting changes. The KEMP Standards of Professional Conduct document includes formatting changes only.

KENTUCKY EMPLOYEE MEDIATION PROGRAM REFERRAL FORM

Today's Date: _____

Referral Contact

Name: _____

Working Title: _____

Mailing address: _____

Work Phone: _____

Email: _____

☐

I supervise the participants

☐

I do not supervise participants directly but am in their chain of command

☐

I work with the other participant

☐

Other: Please explain _____

Participant # 1:

Name: _____

Working Title: _____

Mailing address: _____

Work Phone: _____

Email: _____

Participant # 2:

Name: _____

Working Title: _____

Mailing address: _____

Work Phone: _____

Email: _____

Briefly describe why you are referring/requesting a mediation:



KEMP
STANDARDS OF PROFESSIONAL CONDUCT

I. Mediators are expected to:

- a. Be courteous and professional during the mediation process.
- b. Maintain neutrality and act with impartiality towards the parties and their agreement.
- c. Avoid coercion or improperly influencing parties to reach an agreement or participate in mediation.
- d. Maintain confidentiality at all times regarding the parties, agreement, and to the process itself.
- e. Avoid giving professional, legal, or personal advice to parties, even if asked. Mediators may give factual information to parties.
- f. Make sure all parties necessary to reach an agreement are present, and to promote the interests of those who may be affected by the agreement.
- g. Disclose any relationship to a party to all the participants in mediation, and obtain agreement of all parties to proceed, should a relationship exist.
- h. A mediator shall obtain and maintain appropriate training to ensure competency with topics discussed during mediation sessions.

II. A mediator should remove himself/herself from a case if:

- a. There is a clear or undisclosed conflict of interest.
- b. One or more parties feel that the mediator may not be impartial, after revealing a relationship to one of the parties.
- c. The issues presented in the case are beyond the mediator's skill or knowledge, and they cannot obtain assistance.

III. The mediator may terminate mediation if one or more of the following occurs:

- a. The parties agree that the mediation should be adjourned.
- b. A party becomes violent or makes threats to or about the other party.
- c. A party is unwilling to disclose information necessary to reach an agreement.
- d. The dispute is unsuitable for mediation, or a party is unwilling or unable to participate.



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Gordon A. Rowe, Jr.
EXECUTIVE DIRECTOR

Erritt H. Griggs
GENERAL COUNSEL

July 11, 2025

Hon. Rosemary Holbrook
Deputy General Counsel
Personnel Cabinet
Office of Legal Services
501 High Street, 3rd Floor
Frankfort, KY 40601

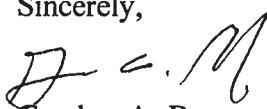
RE: Approval of proposed Personnel Cabinet regulations 101 KAR 2:120, Incentive Programs; 101 KAR 2:140, Workers' Compensation Fund and Program; and 101 KAR 2:230, Kentucky Employee Mediation and Workplace Resolution Programs

Dear Ms. Holbrook:

In accordance with 18A.110(6), the Personnel Board reviewed the above proposed regulations presented by the Personnel Cabinet. The Board unanimously approved the changes as submitted during its July 11, 2025 Board Meeting.

If there are any questions regarding the Board's actions or if any additional information is needed, please contact me.

Sincerely,


Gordon A. Rowe, Jr.
Executive Director

TEAM
KENTUCKY™

An Equal Opportunity Employer M/F/D