

1 GENERAL GOVERNMENT CABINET

2 BOARD OF INTERPRETERS FOR THE DEAF AND HARD OF HEARING

3 (Amended After Comments)

4 201 KAR 39:030. Application; qualifications for full licensure; and certification levels.

5 RELATES TO: KRS 309.304(1), 309.312(1)(b)

6 STATUTORY AUTHORITY: KRS 309.304(3), 309.312(1)(b)

7 NECESSITY, FUNCTION, AND CONFORMITY:

8 KRS 309.304(3) and 309.312(1)(b) require the Kentucky Board of Interpreters for the Deaf  
9 and Hard of Hearing to promulgate an administrative regulation establishing the requirements for  
10 an applicant for licensure as an interpreter for the deaf and hard of hearing. This administrative  
11 regulation establishes these requirements.

12 Section 1. Application. Each applicant for a full license shall:

13 (1) Submit a completed Application for Licensure form to the board;

14 (2) Pay the application and license fee as set forth in 201 KAR 39:040; and

15 (3) Submit proof of valid certification from one (1) of the following nationally recognized  
16 organizations:

17 (a) At a level recognized by RID with the exception of NAD III;

18 (b) [~~At EIPA level 4.0 and passage of the EIPA written;~~]

19 [(e)] TECUnit;

20 (c)[~~(d)~~] BEI Advanced or better achieved within three (3) years of application; [~~or~~]

1 (d) [(e)] Another current certification from a nationally recognized organization at  
2 the requisite level for sign language interpreters, oral interpreters, or cued speech  
3 transliterators as determined by the board; or

4 (e) Other certifications as described in 201 KAR 39:080, if applying for licensure via  
5 reciprocity.

6 Section 2. Appeal of Denial of an Application for Licensure.

7 (1) If an Application for Full Licensure is denied, the applicant shall have the right to appeal  
8 that preliminary determination.

9 (2) An appeal shall be:

10 (a) Submitted to the board in writing by certified mail; and

11 (b) Received by the board within thirty (30) days after the date the applicant receives the  
12 notice of preliminary denial by certified mail or by email message delivered to the  
13 addresses stated on the Application for Licensure.

14 (3) The appeal of a preliminary denial of an Application for Licensure shall be held in  
15 accordance with the provisions of KRS Chapter 13B.

16 Section 3. Individuals who are [These] fully licensed with an EIPA level 4.0 or 3.5 and  
17 passage of the EIPA written on or before January 1, 2025, shall remain entitled to full licensure  
18 if they continue to renew the license annually in compliance with all other licensure  
19 requirements. Failure to annually renew a license shall result in an applicant for  
20 reinstatement being required to meet the requirement [shall have until July 1, 2030,] to  
21 achieve a nationally recognized certification as identified in Section 1 of this administrative  
22 regulation.

23 Section 4. Incorporation by Reference.

1        The following material is incorporated by reference:

2        (1) "Application for Full Licensure", DPL-KBI-001, October~~[April] 2024~~~~[December 2016]~~,  
3 is incorporated by reference.

4        (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at  
5 the Department of Professional Licensing, 500 Mero Street,~~[911 Leawood Drive,]~~ Frankfort,  
6 Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. and on the Board's website at  
7 www.kbi.ky.gov.

201 KAR 39:030

APPROVED BY AGENCY:

A handwritten signature in black ink, appearing to read 'Marva Johnson', written in a cursive style.

Marva Johnson  
Chair, Board of Interpreters for the Deaf and Hard of Hearing

Date: 10/14/2024

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 201 KAR 39:030  
Contact Person: Sara Boswell Janes  
Phone Number: (502) 782-5245 (office)  
Email: sara.janes@ky.gov

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation establishes the procedures for the licensure of persons who wish to practice in the state as a Licensed Interpreter for the Deaf and Hard of Hearing.
- (b) The necessity of this administrative regulation: This administrative regulation is necessary to set the process and minimum certification testing score for licensure.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS Chapter 309 requires the board to verify the qualifications of and establish a procedure for the licensure of persons who wish to practice in the state as a Licensed Interpreter for the Deaf and Hard of Hearing. This administrative regulation establishes the minimum qualifications and requirements for licensure.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs the applicants of the examinations required, minimum test scores, and requirements for obtaining licensure from the board.

(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 amendment will clarify this regulation relates only to applicants for full licensure; strikes the EIPA level 4.0 and passage of the EIPA written as qualification for full licensure; and provides for a revision to the form for full licensure and an update to the form.
- (b) The necessity of the amendment to this administrative regulation: The Policy Committee recommended amending the regulation to clarify its application to full licensure and the board deemed the amendment necessary to clarify confusion among applicants as to whether the regulation related to temporary licenses. Additionally, the EIPA is not a nationally recognized certification but only a testing instrument only intended for service in K-12 schools. The EIPA level 3.5 and passage of the EIPA written remains qualifying for temporary licensure. There is a grandfather clause for current licensees who qualified for full licensure with only the EIPA. Additionally, amendment has also been made to provide authority for the board to accept new certifications from nationally recognized organizations which is authorized by statute and will not delay approval of applications by restricting the board to only certifications now in existence, thus requiring a regulation change to give approval.
- (c) How the amendment conforms to the content of the authorizing statutes: KRS 309.304(1) requires the board to evaluate the qualifications for applicants for licensure and establish procedures for the issuance of licenses. The amendment conforms with the promulgating authority to establish administrative regulations for effective administration.
- (d) How the amendment will assist in the effective administration of the statutes: This amendment will clarify that the current application for licensure form will be used for full

licensure and a new form will be created for applicants for temporary licensure. This amendment will help alleviate current confusion related to the application process. The amendment will also ensure individuals who are not qualified to provide interpreting services generally will not have a full license. This will ensure students have quality language services for success.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 533 full licensees and 45 temporary licensees. This regulation will also affect new applicants seeking temporary or full licensure from the board. There are currently twenty-one (21) known fully licensed interpreters with the EIPA of 4.0 or 3.5 who will not be affected. Additionally, any applicant for licensure with the EIPA of 4.0 or greater who applies and is issued a full licensure before the effective date of this administrative regulation will not be affected.

(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: This applicant for full licensure will be required to complete the application for consideration by the board.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The fee for application for full licensure as set forth in 201 KAR 36:040.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for licensure will understand the regulation relates only to application for full licensure.

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

(a) Initially: No new costs will be incurred.

(b) On a continuing basis: No new costs will be incurred.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicants.

(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: No increase in fees or funding is necessary to implement this administrative regulation change.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation only sets the procedure for obtaining a full license. This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not): This regulation does not distinguish between similarly situated individuals on the basis of any factor.

## FISCAL IMPACT STATEMENT

Regulation No. 201 KAR 39:030  
Contact Person: Sara Boswell Janes  
Phone Number: (502) 782-2709 (office)  
Email: sara.janes@ky.gov

1. Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.304, KRS 309.312.
2. Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Interpreters for the Deaf and Hard of Hearing is an administrative body created by KRS 309.302 and the promulgating agency.
  - (a) Estimate the following for the first year:
    - Expenditures: None.
    - Revenues: None.
    - Cost Savings: Unknown.
  - (b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in subsequent years.
- (3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated.
  - (a) Estimate the following for the first year:
    - Expenditures: None.
    - Revenues: None.
    - Cost Savings: None.
  - (b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in expenditures, revenues or cost savings to local entities in subsequent years.
- (4) Identify additional regulated entities not listed in questions (2) or (3): There are no other regulated entities not otherwise listed.
  - (a) Estimate the following for the first year:
    - Expenditures: N/A
    - Revenues: N/A
    - Cost Savings: N/A
  - (b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A
- (5) Provide a narrative to explain the:
  - (a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact to this administrative regulation.
  - (b) Methodology and resources used to determine the fiscal impact: Methodology and resources was a review of the existing budget by the board's fiscal administrator as well as consideration of the amendment and whether staff time and costs will be increased.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate). This administrative regulation will not have an overall negative or adverse major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: Methodology and resources was a review of the existing budget by the board's fiscal administrator as well as consideration of the amendment and whether staff time and costs will be increased.



## SUMMARY OF MATERIALS INCORPORATED BY REFERENCE

201 KAR 39:030

The "Application for Licensure", December 2016, consisting of five (5) pages. is incorporated by reference.

## SUMMARY OF CHANGES TO MATERIALS INCORPORATED BY REFERENCE

201 KAR 39:030

The form has been renumbered and renamed as follows: "Application for Full Licensure", DPL-KBI-001, October 2024, consisting of six (6) pages. The form was also changed to strike previous national certification types that are no longer available, to add new national certifications that will be accepted; and strikes certain examinations by CASLI that were amended after comments that inclusion was confusing because each examination alone was not a qualifying certification.

Additionally, a new form will be adopted for the application for temporary licensure in the regulation related to temporary licensure since this form will no longer be used for both license types.

STATEMENT OF CONSIDERATION  
Relating to 201 KAR 039:030

Kentucky Board of Interpreters for the Deaf and Hard of Hearing  
(Amended After Comments)

- I. The public hearing on 201 KAR 039:030, scheduled for August 27, 2024, at 11:00 AM EST in Room 127 CW, The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601 was canceled; however, written comments were received during the public comment period.
- II. The following people submitted written comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Dr. Daniel Rousch	EKU
Hanah Jean Shanebrook, Temporary Interpreter	
Sara Logsdon, Interpreter and Owner	ASL Interpreting Services
Bill Bishop	
Matilynn Young	Daviess County Schools
Madison Metcalf, Interpreter	
EW, Deaf consumer	
Denise Lautenschleger, Interpreter (Expired)	
Gary Andrew Bailey Pickle, Teacher	
Audrey LeAnne Mann, Parent	
Allison Rence Forrester	
Amber McCarty	
Kimberly Reeves	
Bethany Reeves	
Janella Fruehwald	
Tracey L. Cavender	
Daniel Reeves	
Natalie Fruehwald	
Vicki Howe	
Mary Mitchell	
Alexis	
Joseph Howe	
Rita Stelmach	
Noah Bush	
Christian J. Patterson	TN resident
Melissa Thompson	
D Ferguson	

Shari Stauffer	
Destiny Patterson	
Brittney Underwood	
Corey Sena	OH resident
William Chamberlain	
Shelby Redmond	
Sydney	
Angela Endicott	
Ashley Million	
Faith Patterson	TN Resident
Christian Patterson	TN resident
Sarah Ackel	Kenton Co. Schools
Amanda Reynolds	
Emily Klare	
Katie Ponder	
Tarra Miller	
Tela Garcia	
Toni Skees	
Erin Weaver	
Kelly Baralt	
Angela Staverman	
Amy	Kenton Co. Schools
Summer Crawford	Kenton Co. Schools
Jason Stelmach	
Winter Stelmach	
Kim Del Barba	
Ashley Milar	
Jessica	Kenton Co. Schools
Gary Boswell, Senator	
Crystal Corum, Teacher	Daviess County Schools
Tara Jones, TDHH (Teacher of the DHH)	
Linda Bozeman, Interpreter - Retired	
Kimberly Fraser, Interpreter	Jefferson County Schools
Katherine Fenwick, Media Specialist	Daviess County Schools
Susan Jones, Interpreter	
Derek Drury, Interpreter	
Leslee Shannon Young, Interpreter	
Mandi McCann	
Rebecca Lashley	Daviess County Schools
B. Kaye Beckner	
Remington	
Annie Sharp	
Bethany Boynton, Temporary Interpreter	
Charity Reed, Interpreter	
Lauren Yanelli, Interpreter	

Cyndi Henderson, Interpreter	
Miranda Stewart	Warren Co. Schools
Neesa Richardson	Warren Co. Schools
Amber Horning, Interpreter	
Lori C, EIPA Interpreter	
Megan Hunt	
Artie Grassman, Interpreter (ret. & former board chair)	
McKenzy Chaffin	
Megan Hunt, EIPA Interpreter	EIPA Interpreter
George Breden, Former KY interpreter	
Salem Thompson, Temporary Interpreter	
Jessica Meeks	Parent
Robin Bush	Daviess County Schools
Mary M. "Peggy" Duvall	
Samantha Carter, Temporary Interpreter	
Dr. Daniel Rousch	EKU
Benjamin Meeks, Parent	
Tiffany Coffey, Friend	
Cynthia Douglas, Grandparent	
Kimberlee Manges	
Jon Adkins	
Summer Atteberry	School system
Renee	
Erica Wilson	Daviess County Schools
Tiffany Barnes, Interpreter	
Courtney Williams, Temporary Interpreter	
Edie Ryan, Interpreter	
Kristen Nall	
Ashley Howard	Daviess County Schools
Haley Makowski	Daviess County Schools
Joseph Hinton, Interpreter	
David Wickersham, Federal Policy & Regulatory Coordinator	KDE, Office of Special Ed and Early Learning
Amy E. Nitschke, Interpreter	
Kimberly Curtis, Interpreter	
Savanna Nellis, Interpreter	
Cheyenne Jennings, Temporary Interpreter	
Anne Donnelly	
Carrie Stelmach, Interpreter	
Lindsey Turley	
Anita Dowd, Executive Director	KCDHH
Rachel Morgan	KCDHH
Heather Steinbach, Interpreter	
Danielle Beckmann, Interpreter	
Neisha Blue	Daviess County Schools

Cindy Heady  
Hugh Hunt  
Karla Hunt  
Jessica Wathen  
Nea Cowan  
Robert Peavler  
Jacob Hunt  
Amy Tinnell, Interpreter

Daviess County Schools

III. The following people from the promulgating administrative body responded to the written comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Marva Johnson, Chair	Board of Interpreters for DHH
Edie Ryan	Board of Interpreters for DHH
Rebecca Kreutzer	Board of Interpreters for DHH
Hunter Bryant	Board of Interpreters for DHH

IV. Summary of Comments and Responses.

1. Subject Matter: Elimination of EIPA with a score of 4.0 or better as a qualification for full licensure.

(a) Comment: Multiple comments were received that the Board should not remove the EIPA as a certification option for full licensure as it will negatively impact deaf and hard of hearing children/students in Kentucky, reduce the pool of interpreters, will cause school districts to be in violation of ADA and the IDEA, and is acceptable in the majority of states.

(b) Response: The Board does not concur with these comments and will not amend after comments based on KRS 309.312(1)(b) which requires a current certification from a nationally recognized organization at the requisite level for sign language interpreters, oral interpreters, or cued speech transliterators as determined by the board and promulgated by administrative regulation for full licensure. The Educational Interpreter Performance Assessment (EIPA) is administered by Boys Town National Research Hospital ("Boys Town"). Boys Town specifically states on its Web Site EIPA is an assessment agency, not a certifying or licensure agency. Rather, EIPA is a performance-based test that evaluates the skills of interpreters who work in a K-12 classroom. Additionally, EIPA was recognized as a certification by the Registry for the Deaf (RID), a nationally recognized organization, in 2012 when the KBI included the EIPA as a qualification for full licensure. However, RID ceased recognizing EIPA as a certification in 2017. Since the EIPA is not a current certification by a nationally recognized organization, it no longer qualifies for full licensure by statute. The Board submits the EIPA is a specialization similar to the Court Interpreter Training or the Mental Health Interpreter Training programs available to give licensed interpreters specialization for interpreting in school, court or mental health settings. The Board contends statutory amendment is necessary to

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enable it to accept a qualification that is not a certification recognized by a nationally recognized organization. However, EIPA will remain an avenue for full licensure since it is a qualification for temporary licensure.

(a) Comment: One comment was received as follows: My comment has to do with the removal of the EIPA requirements for Full License: I strongly support this change. I speak in support of this because I anticipate that there will be pushback from individuals, some of whom are motivated by the interest of keeping their interpreter jobs. There may also be some spokespersons of other government agencies and school districts who struggle to find qualified educational interpreters. These individuals and agencies may not be motivated by the same aim of the Public Protection Cabinet, Interpreter Licensure Board whose regulatory purpose includes the protection of the most vulnerable Kentucky citizens: Deaf children. If there is overwhelming pressure to add the EIPA back in, I ask that the EIPA level be 5.0 as this level is supported by research to be optimal. The latest research shows that: "Through a comprehensive review of empirical research studies, we will examine the critical threshold scores, emphasizing that a score of 3.0 is effectively a failing mark, whereas a score of 5.0 is considered optimal for educational interpreters. Despite robust evidence indicating that interpreters scoring below 4.0 should not be working with deaf children, the majority of states in the USA have set the minimum acceptable score at 3.0. This standard not only undermines the quality of education provided to deaf students but also borders on mental neglect and language deprivation." (Wright, 2024, see <http://language1st.org/events/decoding-the-impact-of-eipa-scores>). We must work together to protect and support the most vulnerable children in our society who do not have the ability to self-advocate for their needs. The law must protect them regardless of the lack of popularity among adults/agencies in response to the regulation change. If agencies/districts struggle to fill educational interpreter positions, it is due to not paying them what they are worth. This has been proven in several examples that I have seen in which interpreter positions are immediately filled when the pay is commensurate with the qualifications.

(b) Response: The Board concurs in part. The Board agrees the EIPA is not a qualifying certification for full licensure as required by KRS 309.312(1)(b) and takes the cited studies relating to impact of language deprivation under advisement. The Board takes no position on the issue relating to the inability to fill positions due to compensation by agencies/districts.

(a) Comment: One comment was made as follows: While this change in the regulations does not affect me personally, I feel strongly as I see how it will affect other interpreters seeking certification and full licensure. The Board is moving to strike EIPA level 4.0 as an acceptable credential for full licensure, and place a greater emphasis on CASLI and BEI national certification. I submitted a separate public comment regarding my concerns regarding removing the EIPA, but I also have additional concerns about relying on CASLI for full licensure. We are all well aware of the limitations of CASLI (the referendum, long wait times for test results, poor communication with applicants.) I will not waste the Board's time rehashing the history. However, whenever complaints are levied against the CASLI, the typical response is to tell the temporary licensed interpreter they should "just go take the BEI." This response is insensitive and privileged. The closest testing site is located in Illinois, and few temporary licensed interpreters have the resources to travel out of state

and obtain lodging in order to take the exam. Since often people need to take the exam twice, they would need to travel twice. As I mentioned in a separate public comment, I have serious concerns about the removal of the EIPA. I also have serious concerns on the state's reliance on the CASLI and the unobtainability of the BEI. While I do not think the EIPA should be removed as a path to full licensure, I also think we should have options for temporary licensed interpreters in case one testing system shuts down as it has in the past. I am proposing the Board partner with local state agencies (Kentucky Commission for the Deaf and Hard of Hearing) and/or state universities (University of Louisville, University of Cincinnati, Western Kentucky University) to develop BEI testing sites. We need to be prepared for unforeseen changes. With this preparation the state will have more temporary licensed interpreters becoming fully licensed interpreters. The barriers temporary licensed interpreters face will be mitigated, and we will be addressing the shortage of qualified interpreters in the

(b) Response: The Board acknowledges these comments and takes no position on the comments related to the CASLI or BEI. The Board has no information or believe relative to what individuals are "told" as it relates to CASLI or BEI. The Board is not specifically authorized to partner or work with local state agencies or universities under KRS 309.304. However, 309.308 creates a KBI Policy Committee consisting of ten (10) members that include state agencies and schools/universities whose duties do include providing ongoing advice and input to the board regarding criteria for licensure, recommendations regarding content of relevant administrative regulations and ongoing review of professional development and support systems for interpreters including existing public and private education programs and training resources within the Commonwealth. While the Board is without the specific authority to develop testing sites, the Policy Committee, of which the Board is not a part, does have that authority. The Policy Committee has not met consistently over the years but did meet and provide recommendations on these proposed administrative regulations in 2023.

(a) Comment: One comment was received as follows: I am voicing my concerns and objection to the proposed regulation changes regarding EIPA 4.0 assessment full licensure as proposed in KRS 39:030 Section 1. As a former KBI Board member serving as the first chairperson I was heavily involved in the development of the initial regulations and later served on the committee that recommended adoption of the EIPA 4.0 after extensive research into the validity and reliability of the EIPA assessments and the various levels that could be awarded to those taking the exam that would meet the KBI level of skills necessary to be licensed, There are two areas stated in the rationale regarding national recognition and assessment versus certification. Comment Regarding Legislation: I contend that the EIPA is a nationally recognized. According to research done by the University of Northern Colorado the EIPA is recognized in 42 states (see PDF attachment). Requirements of states vary from 3.0 to 3.5 to 4.0. Kentucky along with 11 other states use the 4.0 standard. Changes were made to regulations that increased the requirement from EIPA 3.5 to 4.0 in 2013 following the acceptance by the Registry of Interpreters for the Deaf of the EIPA 4.0 rating recognized as "certified" by the Registry of Interpreters for the Deaf. I find it interesting that the Board argues the EIPA is an assessment and not a certification. and therefore, should not be considered for full licensure. However, the Board does accept the Center for Assessment of Sign Language (CASLI) that is also an assessment. I fail to see the difference. I further argue that the term assessment versus certification is semantic in nature. Assessments are used to ensure a baseline of knowledge and skills.

Certifications are used to authenticate a person's relevant knowledge and skills and demonstrated by the assessment. All interpreter "certifications" recognized by the Board have an assessment component and individuals are awarded certificates or designations (I.e EIPA 4.0, BEI Level 3, 4, or 5 the National Association of the Deaf (NAD) 3 and 4, and the numerous RID and CASLI assessment levels granted ). The Board also ascertains that the EIPA does not have a continuing education component though they have numerous educational trainings throughout the year, The BEI and NAD also do not have continuing education requirements. These concerns are remedied by our KBI regulations that require individuals to maintain 15 hours annually including 3 hours of ethical content. While not stated specially in the rationale, the argument has been made that the EIPA has a K-12 educational focus and is not intended for community interpreting settings. These concerns are addressed in 201 KAR 39:120 Section 1 (5) and (9) that states "the interpreter shall adhere to the parameters specific to their skills level or certification". Many of our state agencies that utilize interpreters may have additional criteria I.e. AOC for legal interpreting, hold a BA/BS in areas of concentration, etc. Those who hold the EIPA should limit their work to that end. Should concerns be brought by the public or the Board those issues can be and are addressed in the KBI Code of Ethics. Lastly, the Board has proposed granting a 5 year extension to meet the proposed regulation changes. I content this is an additional undue burden upon individuals who have already demonstrated their competence and paid \$250 for the written component and \$350 for the performance component of the EIPA. The CASLI Generalist Knowledge Exam is \$450 and the Performance Exam is \$500. These costs, in addition to the annual licensure fee and required continuing education seems wholly unnecessary given they have already demonstrated competency and may be cost prohibitive for some. I ask that the LRC review these concerns and reject the proposed changes in regards to the EIPA 4.0 and continue to recognize our valued K-12 interpreters for the work they do.

(b) Response: The Board does not concur with these comments and will not amend after comments based on KRS 309.312(1)(b) which requires a current certification from a nationally recognized organization at the requisite level for sign language interpreters, oral interpreters, or cued speech transliterators as determined by the board and promulgated by administrative regulation for full licensure. The Educational Interpreter Performance Assessment (EIPA) is administered by Boys Town National Research Hospital ("Boys Town"). Boys Town specifically states on its Web Site EIPA is an assessment agency, not a certifying or licensure agency. Rather, EIPA is a performance-based test that evaluates the skills of interpreters who work in a K-12 classroom. Additionally, EIPA was recognized as a certification by the Registry for the Deaf (RID), a nationally recognized organization, in 2012 when the KBI included the EIPA as a qualification for full licensure. However, RID ceased recognizing EIPA as a certification in 2017. Since the EIPA is not a current certification by a nationally recognized organization, it no longer qualifies for full licensure by statute. The Board submits the EIPA is a specialization similar to the Court Interpreter Training or the Mental Health Interpreter Training programs available to give licensed interpreters specialization for interpreting in school, court or mental health settings. The Board contends statutory amendment is necessary to enable it to accept a qualification that is not a certification recognized by a nationally recognized organization. However, EIPA will remain an avenue for full licensure since it is a qualification for temporary licensure. The Board does not concur that it stated the EIPA does not have a continuing education component; however, the Board has stated the EIPA assessment has not been updated in



a number of years. The Board states the BEI and NAD are current certifications by a nationally recognized organization, RID. Further, insofar as the costs of testing, the Board acknowledges these costs and states that all programs and testing have costs associated with testing which displays competency and qualifications for receipt of a professional license being sought.

(a) One comment was received as follows: a) These changes will strain a workforce that is already overwhelmed with requests for interpreters. b) ASL-IS, an interpreting agency in Louisville which has access to the most interpreters in the state, had 8 full-time placements last year that were unfilled. This is just one example I was able to gather. There are more. c) Several bordering states do not have licensure requirement and we may lose potential interpreters and those who will soon graduate from ECU's Interpreter Training Program, to surrounding states.

b) There are quite a few states that recognize and/or require the EIPA for educational interpreting. With the lack of time afforded to respond to these proposed changes, I have not had time to look up the stats but I can provide that if requested. e) The EIPA is the only nationally recognized assessment tailored for educational interpreters. They have an assessment for Elementary and an assessment for High Schools. It is administered by Boystown in Nebraska and is highly respected. f) There are interpreters who are currently working in school districts who are fully licensed with the EIPA but will be stripped of it in 2030. g) There is a severe shortage of interpreters and the school districts struggle to find and hire interpreters. This would worsen the problem and shrink the pool of interpreters. h) The rationale in the proposed regulations states that the EIPA is an assessment and not a certification. This is purely semantics. Both tests are evaluations of interpreting skills. The EIPA could be called the EIPC but they chose assessment instead of certification, i) School districts will be faced with potential and likely lawsuits if they are not able to fulfill the accommodations in a deaf/hard of hearing student's IEP, Individualized Education Plan. They would be in violation of the ADA, Americans with Disabilities Act and the IDEA. j) Currently, persons with an SLPI Advanced, (Sign Language Proficiency Interview) and the passage of a written test can get a temporary license and interpreter in the community or education for up to 5 years. Then they must have passed either the NIC, BEI or EIPA. Those persons pose a greater risk than those who hold the EIPA which is a stringent evaluation. The SLPI is an interview with one person to assess your fluency in ASL. An Advanced is considered the lowest level acceptable to qualify for a temporary license. With a temporary license, you work under a mentor which will now be changed to supervisor in the new proposed regs. k) There are persons who are performing the work of an interpreter who have no credentials, no license, and they should be the first priority for protecting the public. It is a misdemeanor to interpret in KY without a license even if you are hired under a different title. If the work you perform is that of an interpreter, you must have a license. l) The rationale from KBI states that there are 500 interpreters in the state. It would inform the committee if you had a breakdown of how many of those are actually working in KY, how many we have to import from out of state, and how many are virtual. m) There are several other proposed revisions but this is the one that affects school districts. For Some Background: This stems from the belief and opinion of the Ky Board of Interpreters members that some interpreters are working outside of their skillset if they have the EIPA, which is a nationally recognized evaluation and not the NIC, National Interpreter Certification. The reverse can be true if someone has the NIC and goes to work in an educational environment. Under the current law, there is no provision for strictly an Educational License. If

someone, any interpreter, accepts a job this problem. The Board needs to provide specific examples or data where those with an EIPA have interpreted in the community unethically to give the committee as opportunity to review the scope of the problem.

(b) Response: The Board concurs in part as it relates to items f) and will amend after comments to grandfather in all fully licensed interpreters with EIPA-only qualification without limitation. The Board does not concur with the remainder of these comments relating to the elimination of the EIPA with a 4.0 or better as a qualification for full licensure and will not amend after comments based on KRS 309.312(1)(b) which requires a current certification from a nationally recognized organization at the requisite level for sign language interpreters, oral interpreters, or cued speech transliterators as determined by the board and promulgated by administrative regulation for full licensure. The Educational Interpreter Performance Assessment (EIPA) is administered by Boys Town National Research Hospital (“Boys Town”). Boys Town specifically states on its Web Site EIPA is an assessment agency, not a certifying or licensure agency. Rather, EIPA is a performance-based test that evaluates the skills of interpreters who work in a K-12 classroom. Additionally, EIPA was recognized as a certification by the Registry for the Deaf (RID), a nationally recognized organization, in 2012 when the KBI included the EIPA as a qualification for full licensure. However, RID ceased recognizing EIPA as a certification in 2017. Since the EIPA is not a current certification by a nationally recognized organization, it no longer qualifies for full licensure by statute. The Board submits the EIPA is a specialization similar to the Court Interpreter Training or the Mental Health Interpreter Training programs available to give licensed interpreters specialization for interpreting in school, court or mental health settings. The Board contends statutory amendment is necessary to enable it to accept a qualification that is not a certification recognized by a nationally recognized organization. However, the EIPA will remain an avenue for full licensure since it is a qualification for temporary licensure. The Board is without authority to take action against individuals who may be interpreting without a license if a complaint is not made or information is not in its possession identifying those individuals. Further, the Board does not concur with the statement that this stems from those interpreters acting outside their skillset. The amendment stems from the Board’s acknowledgement that the EIPA is not a certification by a nationally recognized organization and therefore, is not a qualification authorized by statute. The Board is bound to enforce the provisions of KRS 309.300 to 309.310, as set forth in KRS 309.304.

(a) Comment: The Board received one comment as follows: Removing the EIPA as an option for full licensure should be reconsidered. Currently 36 of 50 states accept an EIPA score of 3.5 or higher for permanent credential. Kentucky is in an elite group of states requiring a 4.0, as only 14 states require a 4.0 or higher. I have personally seen several interpreters in the state of Kentucky unable to obtain such a high score of 4.0 to obtain a full license, resulting in those interpreters leaving the profession of interpreting all together. At such a time as this, we do NOT need to be making it even harder to work in the state of Kentucky. The impact survey discussed how this may affect current interpreters. Nowhere did I see how this will affect the deaf community. That should be our utmost concern. We will be losing more qualified interpreters under this proposed change. I’m unsure why there is such a stigma around the EIPA. It is an amazing test that provides extremely thorough feedback for our interpreters. If any interpreter is able to pass the EIPA at a 4.0 or higher, that is a huge feat considering the difficulty of the test.

(b) Response. The Board does not concur with this comment and will not amend after comments. As stated in its Responses above, the EIPA is not a certification by a nationally recognized organization as is required by KRS 309.312(1)(b). Therefore, the Board is not authorized to exceed its authority by continuing to accept the EIPA-only for full licensure.

(a) Comment: One comment was received as follows: To the Kentucky Board of Interpreters and any Legislators who may read these comments, I was recently informed of a proposal to remove the Educational Interpreting Performance Assessment (EIPA) as one of the qualifications to allow an American Sign Language interpreter to gain full licensure in the State of Kentucky (201 KAR 39:030). This proposal is one that will have negative lasting effects on the future of Deaf students in this state. I've been told for over a decade about the shortage of qualified, licensed interpreters. Despite this, I've heard of funding/budget cuts to Eastern Kentucky University's Interpreter Training Program, which is a 2-year program to train future interpreters. EKU is one of the best schools in the nation to learn the skills necessary to be a quality interpreter. As of the spring of 2016, the graduating class had between 20-25 members, and a new cohort of the same number was starting in the fall. That is fewer than 50 new interpreters for the entire state of Kentucky in a 4-year cycle, and many of these students are not from Kentucky and will not remain in the state to interpret, so the actual number of interpreters entering the field here are fewer. Contrast this with the estimated 700,000 Kentucky adults (over 18) who are Deaf and should have unlimited access to a licensed interpreter, where applicable. I could not locate a total number of students (K-12th) in Kentucky, as the KCDHH Demographics Webpage only reflects those individuals age 18 and above; however, according to an overview of Kentucky School for the Deaf (KSD) (<https://www.usnews.com/education/k12/kentucky/kentucky-school-for-the-deaf-142564>) there are 64 students registered. According to a Columbia University News article in 2022, "approximately 85% of [Deaf/Hard of Hearing (DHH)] children attend mainstream schools with their typically hearing peers." (<https://news.columbia.edu/news/evolution-deaf-and-hard-hearing-educationteachers-college>) If one combines the two statistics (85% of DHH students in mainstream schools and 64 students at KSD), there would be approximately 426 DHH students in Kentucky. Currently there are 644 temporary and fully-licensed interpreters listed on the Active License Directory through the Kentucky Board of Interpreters for the Deaf and Hard of Hearing ([https://oop.ky.gov/active\\_lic\\_dir.aspx](https://oop.ky.gov/active_lic_dir.aspx)); however, the proposal for this bill states, "there are currently 533 full licensees and 45 temporary licensees" (<https://apps.legislature.ky.gov/law/kar/titles/201/039/030/REG/>). This means if each K-12 student had their own Licensed ASL interpreter, there would be 218 interpreters (or 152 based on the proposal) available between 7 AM and 4 PM Monday through Friday from August to May to interpret Doctor's Appointments, Business Meetings, Emergency Room visits, etc. for the 700,000 DHH residents in Kentucky. The numbers make the shortage apparent! Why wouldn't Kentucky want a larger quantity of qualified interpreters in an education setting? As I'll outline below, the EIPA is designed for interpreters in an educational setting. Removing the EIPA as a path to licensure is reducing the options qualified interpreters are given to be licensed to do what they do well, which is allow Deaf students access to the same opportunities and communication as their hearing peers. Currently, Kentucky will accept the EIPA at a score of 4.0, or higher to obtain an Interpreting license. The mission of the EIPA is, "to develop educational interpreters' sign language skills so that students who are deaf and hard of hearing can receive the highest level of access to the intellectual, academic,

and social aspects of educational experiences.” (<https://www.classroominterpreting.org/about>) Test scores range from 0 (no skills demonstrated) to 5 (advanced, native-like skills) (<https://www.classroominterpreting.org/assessments/performance>). This exam covers both Voice-to-Sign and Sign-to-Voice. The rubric for Voice-to-Sign (<https://cdn.aglty.io/classroom-interpreting/resources/EIPARatingForm.pdf>) assesses items such as: “stress/emphasis for important words or phrases, production and use of non-manual adverbial/adj. markers”. The Sign-ToVoice section assesses “fluency/pacing, clarity of speech, volume of speech” among other areas. Contrast this with the CASLI (Center for the Assessment of Sign Language Interpretation) NIC Interview and Performance Exam, which states “the NIC Interview and Performance Exam and the scoring process for the vignettes in the exam are not designed or intended to be used to rank candidates or to assess the degree to which candidates are above or below the pass/fail point.” (<https://www.casli.org/exam-preparations/for-nic-candidates/nic-performance-exam-details/nicperformance-scoring/>) CASLI goes on to state, “the NIC Interview and Performance examination is rated using problem-solving-specific scoring criteria (rubrics)...[however], since these scoring criteria are specific to the actual content of the vignette, they must remain confidential and cannot be provided to candidates.” In short, CASLI and the NIC Interview and Performance Exam would rather have interpreters self-reflect on their strengths and weaknesses as an interpreter than give those taking the test any feedback to improve upon. While I have more to say on that subject, I’ll end this section with the following statistics regarding the NIC Interview and Performance Exam. According to the Registry of Interpreters for the Deaf’s annual report in 2009, 79% of all those who took the NIC Interview and Performance Exam passed. These numbers deteriorated to an all-time low in 2017 at a 25% pass rate. This means the FAILURE rate in 2017 nearly equaled the 2009 pass rate. The pass rate has improved in recent years, likely due to the NIC Interview and Performance Exam’s reworking in 2019; however, the pass/fail in 2023 was still only 44%, meaning fewer than 1 out of 2 test takers were scored with a “pass” rating. Both the NIC Interview and Performance Exam and the EIPA are nationally recognized assessments of an American Sign Language Interpreter’s skills. What separates the two is the vague scoring criteria and lack of transparency from CASLI, which is in stark contrast to that of the EIPA, and those interpreters who have taken take the EIPA to obtain licensure per Kentucky’s current requirements know exactly where they stand in their interpreting skills and can approve upon them using the EIPA scoring rubric and comments as a starting point. The interpreters that I know personally are ALWAYS looking to improve the way that they serve their Deaf clients and are starving for feedback by interpreters with more/different experience than them. They attend continuing education as a requirement for their license, but I believe they would attend these courses regardless because they are passionate about their clients. As a side note, the CEU requirement is for ALL licensed interpreters in Kentucky, regardless of whether they took the NIC Interview and Performance Exam or the EIPA. This is yet another reason why the type of test (EIPA vs. NIC Interview and Performance Exam) to obtain a license is irrelevant if ALL interpreters are required to continue honing their skills for the duration of their interpreting career. While the EIPA is focused on interpreting in an educational setting, it is still a nationally recognized assessment for American Sign Language interpreters, and should be used as a valid assessment of an interpreter’s skills. The same skills required to interpret in a classroom setting for a student are the skills that one would be required to possess in order to effectively interpret in a different setting for an adult. It is for this reason that I urge the board/legislature to critically think of the similarity of a Health/Fitness/Anatomy/Science course to that of an appointment with a primary care physician, or

pediatrician for a Deaf adult taking their child. Discuss what differences exist in interpreting a math/economics course to that of a financial business meeting. Outline the differences in sign-to-voice for a Deaf student's public speaking presentation, or voice-to-sign of the other students' presentation, to that of a Deaf individual presenting their doctorate dissertation or attending a meeting at their workplace. If Kentucky continues to restrict the qualifications for licensure for interpreters, Kentucky will watch the future of the Deaf community become bleaker. As someone who has been privileged enough to interact with the Deaf community, learn their language, and communicate with them outside of an interpreting setting, I can tell you passing 201 KAR 39:030 is a mistake, and I beg you to reconsider its approval.

(b) Response: The Board does not concur in part with these comments and will not amend after comments based on KRS 309.312(1)(b) which requires a current certification from a nationally recognized organization at the requisite level for sign language interpreters, oral interpreters, or cued speech transliterators as determined by the board and promulgated by administrative regulation for full licensure. The Educational Interpreter Performance Assessment (EIPA) is administered by Boys Town National Research Hospital ("Boys Town"). Boys Town specifically states on its Web Site EIPA is an assessment agency, not a certifying or licensure agency. Rather, EIPA is a performance-based test that evaluates the skills of interpreters who work in a K-12 classroom. Additionally, EIPA was recognized as a certification by the Registry for the Deaf (RID), a nationally recognized organization, in 2012 when the KBI included the EIPA as a qualification for full licensure. However, RID ceased recognizing EIPA as a certification in 2017. Since the EIPA is not a current certification by a nationally recognized organization, it no longer qualifies for full licensure by statute. The Board submits the EIPA is a specialization similar to the Court Interpreter Training or the Mental Health Interpreter Training programs available to give licensed interpreters specialization for interpreting in school, court or mental health settings. The Board contends statutory amendment is necessary to enable it to accept a qualification that is not a certification recognized by a nationally recognized organization. However, EIPA will remain an avenue for full licensure since it is a qualification for temporary licensure. The Board acknowledges the remaining comments relating to statistics and other articles and appreciates the information but did not take these into consideration since the Board is without statutory authority to maintain EIPA as a qualification for full licensure under KRS 309.312(1)(b).

## 2. Subject Matter: Lack of Notice of Proposed Changes to Administrative Regulation.

(a) One comment was made as follows: "removal and addition of national certifications" this information directly impacts interpreters who are licensed by the KY Board of Interpreters, and all of these proposed legislative changes were NOT communicated by KBI themselves. KYRID is a completely independent organization whose mission is to support interpreters in their professional endeavors, and their members pay fees separately from KBI. KBI being a state licensing entity should be responsible for informing licensees of changes that impact their ability to work in the state of KY. KYRID and KBI business should be kept completely independent of each other, no matter if their board members overlap. I am someone who is not a member of KYRID but I do pay licensing fees annually to KBI -- I was not made aware of these changes without word of mouth, and being posted to social media. The community on Facebook was made aware, and I never got a personal email. This makes me question what other business between the 2 organizations is being muddled

and meshed together, and worries me that future changes that impact me will not be communicated until it's too late. I also want to make note of the ineffective time frame that was given to the public to comment on these huge changes. This post was made on 8/27, and the public was invited to a hearing on the same day, that was also cancelled. We were left with 4 days to provide written feedback -- I'm sure you can infer with busy work schedules and home lives; this is not feasible for everyone involved. I feel the interpreting community is left out of the decision-making process whether intentionally or not, there are barriers in place for our voices to not be heard.

(b) Response: The Board does not concur. The Board complied with all statutory requirements pursuant to KRS Chapter 13A. The administrative regulation was filed in timely in June 2024 and was published in the July Edition of the Kentucky Register. Notice and a copy of each proposed administrative regulation was sent to each individual registered for RegWatch, as required by KRS 13A.270. Further, notice was sent to each state association, organization, or other body representing a person or entity affected by the regulation pursuant to KRS 13A.255. The Board posted all proposed administrative regulations with the regulatory impact analysis, forms, and the notice of public hearing and public written comment period on its official website in a conspicuous place. The public hearing was scheduled for August 27, 2024, but was cancelled since there were no written notices of intent to attend. Comments were taken through August 31, 2024. 127 written comments were received before the written comment period expired, and several comments received after the deadline were also received and considered. The Board does not have a social media site and is without information to comment on the contents of the KRID Facebook post relating to this administrative regulation.

3. Subject Matter: Limited Grandfather Clause Requiring Full Licensees with EIPA-Only to Achieve a Nationally Recognized Certification by July 1, 2030.

(a) Comments: Multiple comments were received objecting to the requirement for twenty-one (21) existing fully licensed licensees with EIPA-only to achieve a nationally recognized certification by July 1, 2030 to maintain their full license. One comment stated "I believe this small amount of people should be grandfathered in. All future licensees should have national test."

(b) Response. The Board concurs. The administrative regulation will be amended after comments to grandfather in the existing twenty-one (21) fully licensed interpreters, as well as any applicant who becomes fully licensed prior to the effective date of this administrative regulation, without the requirement that they achieve a nationally recognized certification by July 1, 2030. The fully licensed interpreter with EIPA-only must comply with annual renewal requirements to maintain their full license with an EIPA-only qualification.

(a) Comment: One comment was received as follows: Thank you for taking my recent calls to discuss concerns that have been brought to the Kentucky Department and Commissioner of Education about the proposed amendments to 201 KAR 39:030. While the public comment period for the amendments has closed, the Kentucky Board of Interpreters for the Deaf and Hard of Hearing met on September 5 regarding the numerous comments that were filed during the comment period. You anticipate a deferral of the amendment to permit adequate time to prepare a statement of consideration and to obtain the Board's final version of the regulation (including any changes made).

The concerns that had been brought to us involved fear that the eventual elimination of the EIPA full licensure route might cause the removal of currently fully licensed interpreters from the public schools and inhibit the delivery of services to students with disabilities. You explained that, even with the amendments as currently written, EIPA full license holders will be eligible to renew those licenses until July 1, 2030, and that this grace period has been extended to permit those full license holders to obtain certification from a nationally recognized organization as required by KRS 309.312 and 309.314. You advised that, in addition to this opportunity, temporary licensure will continue to be available, consistent with KRS 309.312. Importantly, the Board is aware of only 17 fully licensed interpreters with the EIPA of 4.0. While there are a number of other directly impacted individuals with the opportunity to obtain full licensure using the other routes, those in that larger number have, in addition to the EIPA level, nationally recognized certification that is consistent with the statutory requirements. It appears that you have been made aware of the worry regarding service delivery for students with disabilities through routes other than our call, but as we are receiving stridently presented concerns about the issue, we wanted to raise it with you and ask that the matter be addressed in the statement of consideration or otherwise to assuage the concern as you did when we spoke. Please feel free to contact me if I may provide any additional information or support, or to share any information I may have misunderstood or may use to soothe concerns that are brought to the Kentucky Department and Commissioner of Education about this issue.

Response: The Board acknowledges these comments and appreciates that the Kentucky Department of Education brought the concerns raised by their constituents to the Board's attention. The Board concurs the seventeen (17) initial fully licensed interpreters who would have been impacted (now twenty-one (21)) should be grandfathered in and will amend after comments to grandfather them in without restriction.

#### 4. Subject Matter: Educational License Avenue.

(a) Comments: Multiple comments were received recommending an educational licensure avenue. One comment stated "There are at least 42 other states that recognize the EIPA as a qualification standard in the educational setting. I feel that the EIPA should not be removed completely but, we should try to create an Educational License avenue."

(b) Response: The Board acknowledges these comments but does not amend after comments since it is without statutory authority to create a new licensure type for educational interpreting. This would require legislative action by an amendment to the existing statutes in KRS Chapter 309. However, if the Legislature enacts legislation amending KRS Chapter 309 to provide an avenue to educational interpreting licensure, the Board will promulgate administrative regulations for that licensure type as it is authorized to do.

(a) Comment: One comment was received as follows: 1: Removal of EIPA (Educational Interpreter Performance Assessment) as an acceptable certification for full licensure: a) An Educational Track should be established if the Board's consensus is that a person who holds EIPA is not qualified to do community interpreting. b) These changes will strain a workforce that is already overwhelmed with requests for interpreters. c) ASL-IS, an interpreting agency in Louisville which has access to the most interpreters in the state, had 8 fulltime placements last year that were unfilled.

d) Several bordering states do not have licensure requirement and we may lose potential interpreters and those who will soon graduate from EKV's Interpreter Training Program, to surrounding states.  
e) There are quite a few states that recognize and/or require the EIPA for educational interpreting. The remainder of this comment related to EIPA as a certification which is addressed in another comment in 1. above and will not be repeated to avoid redundancy.

(b) Response: The Board acknowledges these comments but does not amend after comments since it is without statutory authority to create a new licensure type for educational interpreting. This would require legislative action by an amendment to the existing statutes in KRS Chapter 309. However, if the Legislature enacts legislation amending KRS Chapter 309 to provide an avenue to educational interpreting licensure, the Board will promulgate administrative regulations for that licensure type as it is authorized to do.

(a) Comment: One comment was received as follows: I would like to focus on the specific concerns the Board mentioned in their Impact Analysis. The main reason the Policy Committee recommended striking the EIPA level 4.0 as a qualification for full licensure is because "the EIPA is not a nationally recognized certification but only a testing instrument only intended for service in K-12 schools." While I do challenge the validity of this statement, the only difference I can see between national certification and the EIPA is the ongoing requirement for CEUs. The Board has already resolved this issue as it requires fully licensed interpreters to obtain 15 hours of CEUs for the renewal of a license. If the difference between a certification and an assessment is ongoing education, the EIPA interpreters have the test scores to show an appropriate level of competency and the on-going education the Board is already requiring. I am sure the Board is inundated with public comments pointing out the shortage of interpreters in the state. I will not repeat those concerns as I know the Board is aware and concerned. However, instead of striking EIPA as a path to full licensure without a plan, let's establish a path to full licensure that honors and respects the Board's concerns without making a dire situation worse. I am proposing the establishment of an Educational Interpreting License that offers full licensure to EIPA level 4.0 interpreters. This will limit where those interpreters are permitted to work, ensuring they remain within their proven skill set, while not removing interpreters from a workforce that is already strained. According to data from the National Association of Interpreters in Education (NAIE) in 2023, forty states accept EIPA testing evaluation at a level of 3.0 or above. [See attached documentation.] Kentucky is already at the upper echelon of credentialing to require a level 4.0. To throw out a valid assessment system that is accepted by a majority of states without a plan forward will do little to improve the quality of interpreters in the state. We can mandate where interpreters are working without full removal from licensure. I respect the Board feels changes need to be made to EIPA licensed interpreters, but this approach is not in the best interest of Deaf children in the Commonwealth. An Educational Interpreting License will ensure Deaf children have qualified interpreters and address the Board's desire to make sure Kentucky licensed interpreters are working within their assessed skill set.

(b) Response: The Board acknowledges these comments but does not amend after comments since it is without statutory authority to create a new licensure type for educational interpreting. This would require legislative action by an amendment to the existing statutes in KRS Chapter 309. However, if the Legislature enacts legislation amending KRS Chapter 309 to provide an avenue to



educational interpreting licensure, the Board will promulgate administrative regulations for that licensure type as it is authorized to do.

(a) Comment: One comment was received as follows: If the EIPA 3.5 or higher, along with the written EIPA passage, is permitted for obtaining a Temporary License, why is it not considered sufficient for obtaining a full license, particularly if KBI is listing it as not recognized as a national certification? Furthermore, how were 60 fully licensed individuals granted their licenses without the documentation required under Section 3 of the proposed statute change? Has there been any discussion about introducing two distinct types of licensure? For instance, one where the EIPA remains an acceptable criterion for full licensure, but limited to educational roles, and a second license based on a nationally recognized certification that qualifies individuals for both educational and other professional opportunities.

(b) Response: The Board acknowledges this comment but does not amend after these comments. The Board has stated in its Response in 1. Above the EIPA is not a certification by a nationally recognized organization. In 2012 when the EIPA was included by the Board in the administrative regulation, it was recognized by RID, a nationally recognized organization, as a certification. Boys Town, who administers the EIPA, has stated it is not a certification and RID stopped recognizing EIPA as a certification via a moratorium in 2017. The KBI Policy Committee began a comprehensive review of the regulations in 2022 and the Board established a Regulations Committee to consider any recommendations of the Policy Committee, as well as make a comprehensive review of the entire chapter, resulting in the realization the Board had exceeded its statutory authority in its inclusion of EIPA as a qualification for full licensure, which was a conflict with its enabling statute. The sixty (60) licensees with full licensure mentioned were new licensees from 2023 and 2024 who had not filed for renewal; and therefore, based on the administration of applications, the qualifying credentials were not in the database. Of those sixty (60) full licensees, only four (4) were EIPA-only qualified. The Board is amending this administrative regulation to grandfather all twenty-one (21) EIPA-only full licensees without restriction. Insofar as comments relating to creating an educational interpreting license, the Board is without statutory authority to create a new licensure type for educational interpreting. This would require legislative action by an amendment to the existing statutes in KRS Chapter 309. However, if the Legislature enacts legislation amending KRS Chapter 309 to provide an avenue to educational interpreting licensure, the Board will promulgate administrative regulations for that licensure type as it is authorized to do.

(a) Comment: One comment was received as follows: The proposed changes to 201 KAR 39.030 raise several key concerns, especially the ripple effect on both educational and community interpreting resources. By removing the Educational Interpreter Performance Assessment (EIPA) as a valid licensing method, the proposed changes could worsen the already critical shortage of qualified educational interpreters, potentially depriving many DHH students of the equitable access to education they require. Furthermore, shifting community interpreters—who are also in short supply—into classroom settings would strain resources in both areas, creating additional challenges for the broader deaf and hard of hearing community. The EIPA is widely respected and utilized by two-thirds of the states to ensure that interpreters have the specialized skills needed to work effectively in educational settings. Removing it, rather than offering it its own specialized track or recognition, overlooks the importance of maintaining a tailored assessment for educational

interpreters. This approach would fail to acknowledge the unique demands of interpreting in classrooms, where the skills required are distinct from those needed in community interpreting. In the impact analysis statement, it says that this is a means to “motivate those with the EIPA to obtain their national certification”. However, EIPA individuals, who specialize in education, are forbidden from doing community interpreting which prevents them from gaining that experience which is vital in preparing for national certification. This highlights the ABSOLUTE need for a third track of licensing that supports their specialized expertise without penalizing them for wanting to focus on educational interpreting. The Kentucky Board of Interpreters (KBI) has the authority and responsibility to outline the roles, responsibilities, limitations, and expectations of interpreters. A well-defined system of accountability, paired with clear guidelines and requirements would help ensure that interpreters adhere to the highest standards of professionalism and competence. In closing, it's clear that our focus should be on improving and building upon the existing system rather than eliminating essential components. By enhancing what we already have, we can better serve both interpreters and the DHH community, fostering a stronger, more inclusive system that addresses current challenges without creating additional barriers.

(b) Response: The Board acknowledges these comments but does not amend after comments since it is without statutory authority to create a new licensure type for educational interpreting. This would require legislative action by an amendment to the existing statutes in KRS Chapter 309. However, if the Legislature enacts legislation amending KRS Chapter 309 to provide an avenue to educational interpreting licensure, the Board will promulgate administrative regulations for that licensure type as it is authorized to do.

#### 5. Subject Matter: Form DPL-KBI-001. Application for Full Licensure.

(a) Comment: One comment stated as follows: My comment has to do with removing the CASLI Knowledge Exam option from page 5 of 6 on the revised form for application for full licensure ("CGKE- CASLI Generalist Knowledge Exam". Listing this can be confusing and redundant because you cannot earn the RID NIC or CDI certification based on that exam alone and the fact that you cannot take the performance portion of the NIC or CDI without having first passed the Knowledge Exam. I recommend removing the "CGKE- CASLI Generalist Knowledge Exam" option.

(b) Response: The Board concurs and will amend after comments to strike the "CGKE- CASLI Generalist Knowledge Exam" from page 5 of 6 on the DPL-KBI-001. Application for Full Licensure. Additionally, the Board will amend to strike the “CGPE-NIC-CASLI Generalist Performance Exam – NIC” and “CGPE-CDI-CASLI Generalist Performance Exam – CID” as the form does not require the names of the individual tests listed in order to avoid confusion relating to qualifying certifications.

#### 5. Subject Matter: Development of New Certification Using EIPA 4.0 or Better.

(a) Comment: One comment stated as follows: The National Association of Interpreters in Education is currently working on developing a certification using the EIPA 4.0+WT <https://naiedu.org/ctf/>, based on industry standards. The NAD III is a recognized certification

through RID. <https://rid.org/certification/> TECUnit certifies Cued Language Transliterators. <https://www.tecunit.org/>.

(b) Response: The Board concurs that new national certifications are on the horizon and acknowledges the administrative regulations do not currently give the Board the ability to recognize and accept a new certification from a nationally recognized organization as authorized by KRS 309.312(1)(b). Therefore, the Board will amend after comments to include a provision in 201 KAR 39:030 and 201 KAR 39:070 allowing the Board to recognize and accept new certification from nationally recognized organizations for both full licensure and temporary licensure.

#### 6. Subject Matter: BEI Recognition for Full Licensure.

(a) Comment: One comment was received as follows: In both Texas and Michigan, the BEI Basic is listed on their applications as being equivalent to the NIC. Given this equivalency, why is the BEI Basic not recognized as an approved certification for obtaining a full license in Kentucky? What is the rationale behind selecting the BEI Advanced as the acceptable certification level? For context, in Texas, the BEI Basic had a pass rate of 52% in 2022, with 174 attempts resulting in 75 certificates awarded. By comparison, the BEI Advanced had a lower pass rate of 33%, with 57 attempts resulting in 19 certificates awarded. The 2023 records for Texas are not yet available. In Michigan, the 2023 data shows a 53% pass rate for the BEI Basic, with 19 attempts and 10 passes. For the BEI Advanced, there was a 30% pass rate, with 20 attempts and 6 passes. Additionally, the NIC for 2023 shows a 44% pass rate, with 519 exams attempted (226 passed, 293 failed). The decision to require the BEI Advanced level seems unclear on the rationale as I do not recall reading a reason why the BEI advance is permitted over the BEI basic; however, the statistics for 2022/2023 suggest a higher failure rate or fewer attempts at this BEI advance level. This is particularly significant considering that the BEI Basic is recognized as equivalent to the NIC.

(b) Response: The Board acknowledges this comment and does not amend after comments. The Board states the BEI Advanced is a certification by a nationally recognized organization and therefore meets with the statutory requirements of KRS 309.312 (1)(b). The Board does not concur the BEI Basic is a certification by a nationally recognized organization.

#### Statement of Consideration and Action Taken by Promulgating Administrative Body

The public hearing on this administrative regulation was canceled; however, one hundred twenty-seven (127) written comments were received. The Kentucky Board of Interpreters for the Deaf and Hard of Hearing is amending this administrative regulation in response to public comment received to grandfather all fully licensed interpreters with EIPA-only on the effective date of this administrative regulation without restriction; add language to authorize the board to accept new certifications by nationally recognized organizations without having to amend the regulations; and amend the MIR to remove CASLI examination references that may be confusing. The Board will not amend this administrative regulation to reauthorize EIPA of a 4.0 or greater as a qualification for full licensure.

Section 1

Line 20

After “application;” delete “or”.

Page 2

Section 1

Line 1

Insert the following:

(d) Another current certification from a nationally recognized organization at the requisite level for sign language interpreters, oral interpreters, or cued speech transliterators as determined by the board; or

(c)

Page 2

Section 3

Line 16

After “Section 3.” Insert “Individuals who are”.  
Strike “those”.

Page 2

Section 3

Line 17

After “written” insert the following:

“on or before January 1, 2025, shall remain entitled to full licensure if they continue to renew the license annually in compliance with all other licensure requirements. Failure to annually renew a license shall result in an applicant for reinstatement being required to meet the requirement [shall have until July 1, 2030.]”

Page 3

Section 4

Line 2

After “DPL-KBI-001,” add “October”.  
Strike “April”.

Material Incorporated by Reference

DPL-KBI-001

Page 1

After “Rev.,” insert “October”.  
Delete “April”.

Page 6

Strike box with “CGKE-CASLI Generalist Knowledge Exam”.  
Strike box with “CGPE-NIC-CASLI Generalist Performance Exam-NIC”.  
Strike box with “CGPE-CDI-CASLI Generalist Performance Exam-CDI”.