

**From:** Buchanan, Bill - Division of Program Standards  
**Sent:** Thursday, September 05, 2013 11:29 AM  
**To:** Rooney-French, Annie - Division of Program Standards  
**Subject:** Amy's Response

This is Amy's response concerning lead teacher breaks:

USDOL is going to require 15 minute breaks a couple times a full day and a 30 minute lunch break for each full day employee, including the lead teacher of a double session preschool program. If there is a way to schedule the instructional time/activities so that instruction is not occurring during the lead teacher's breaks (such as during the required breakfast or lunch of a preschool session during a double session work day, unless instruction is to take place during the meal), then this is the recommendation/guidance we should provide the districts on this question. If there is not a way to schedule the lead teacher's breaks during times that instruction is not taking place, then KDE can either recommend the districts employ a floater who is qualified as a lead teacher to cover the lead teacher's breaks or take the position that a 30 minute lunch break is close enough to the K-12 time limit below for classified supervision of instruction and that the adult-child ratio of the statute is all that needs to be abided by during the lunch breaks of the preschool lead teacher. Please be mindful of the fact that a KDE requirement that additional staff be employed may garner a negative response from districts regarding the additional financial cost to meet this requirement. If this is the program area's recommendation, then do of course provide it to districts. I just wanted to highlight this potential response from districts. Below is a discussion of the guidance and laws involved in this response.

When asked the instructional qualifications question for K-12 instruction, we provide the following as our response.

If instruction is taking place (e.g., if the district is including the time a student spends in the in-house suspension room as instructional time), a certified employee needs to be leading the instruction, per KRS 161.020 and be on-site. While teacher aides (classified employees who have met the requirements of KRS 161.010 and KRS 161.044) may be utilized to "work under the direction of the professional[, certified] administrative and teaching staff...[.]" they cannot be utilized by a school to lead instructional activities without the appropriately certified employee nearby and readily available for assistance. This office routinely has interpreted that to mean that a classified employee should not work alone for extended periods of time without direction and supervision of a certified employee. The relevant certified employcc should be available at a moment's notice and also check by every 15 or 20 minutes to see how things are going.

Preschool programs in our state are established in KRS 157.3175  
<http://www.lrc.ky.gov/Statutes/statute.aspx?id=42371> and regulation 704 KAR 3:410  
<http://www.lrc.ky.gov/kar/704/003/410.htm> requires the school leadership to ensure that preschool staff are given breaks. There are also teacher/student ratios in this regulation and overall staff/student ratios for preschool in this regulation: