

**STATEMENT OF CONSIDERATION
RELATING TO 702 KAR 1:160
School health services
Kentucky Department of Education**

Amended After Comments

1. A public hearing was scheduled on the above regulation on September 29, 2014 at 10:00 a.m. Eastern Time, in the State Board Room, Kentucky Department of Education, 500 Mero Street, 1st Floor, Frankfort, Kentucky, but was cancelled when no one indicated a desire to speak.

2. The following individuals submitted written comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Gary Dougherty, Associate Director	American Diabetes Association
Malicia Hitch, Staff Attorney	Protection & Advocacy
Mahak Kalra, Policy Analyst	Kentucky Youth Advocates and the Kentucky Oral Health Coalition
Eva Stone, APRN, School Health Coordinator	Boyle County Schools
David A. Baird, Associate Executive Director	Kentucky School Boards Association

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

<u>Name and Title</u>
Kevin C. Brown, General Counsel/Associate Commissioner, Office of Guiding Support Services
Amy Peabody, Assistant General Counsel, Office of Guiding Support Services
Hiren Desai, Associate Commissioner, Office of Administration and Support
Kay Kennedy, Director, Division of District Support
Cheri Meadows, Branch Manager, Student Tracking and Transportation Branch
Karen Erwin, State School Nurse, Student Tracking and Transportation Branch

Summary of Comments and Responses

1. Subject Matter: Training for delegation of diabetes care medication administration

(a) Comment: The American Diabetes Association (ADA) commented that the ADA supported the HB 98 (2014) changes to Kentucky statutes KRS 156.502 and 158.838 and the addition of allowance for delegation of diabetes care medication administration to unlicensed school district personnel. The ADA commented that the administrative regulation should clarify that the training programs under this statutory change “must be fully consistent with training programs and guidelines developed by the American Diabetes Association. This would make it clear that no state agency would have the authority to adopt a training course that did not closely follow the widely accepted guidelines established by the American Diabetes Association.”

(b) Response: Though the agency fully agrees that any diabetes care medication administration training and guidelines must be consistent with the ADA, the changes to KRS 158.838(1)(c) already included addition of that requirement to the statute itself:

Any training program or guidelines adopted by any state agency for training of school personnel in the diabetes care tasks covered by this section shall be fully consistent with training programs and guidelines developed by the American Diabetes Association. Notwithstanding any state agency requirement or other law to the contrary, for purposes of this training a local school district shall be permitted to use any adequate and appropriate training program or guidelines for training of school personnel in the diabetes care tasks covered under this section.

The agency is prohibited by KRS 13A.120(2)(e) from including in an administrative regulation that which a state has already prescribed. It is important to note that the Kentucky Board of Nursing provides the actual insulin administration delegation training and this agency provides medication administration delegation training relevant to other medications. Therefore, the agency is unable to make changes to the administrative regulation in response to this comment.

2. Subject Matter: Training for diabetes care tasks

(a) Comment: Protection & Advocacy (P&A) commented that the training of unlicensed school district staff in the assistance of diabetes care tasks is required by HB 98 (2014) to be consistent with the training program and guidelines developed by the ADA but that HB 98 (2014) “did not make any references to the Kentucky Board of Nursing.... Since the program has not been developed at this time, we would suggest that this amendment be postponed until a program can be developed with input from the American Diabetes Association and incorporated by reference.

In addition, the KBN is in the midst of amending its Advisory Opinion #15 which deals with diabetes care in schools. This has not yet been finalized and, if KBN is a necessary party to any training, it makes additional sense to postpone this regulation until AO # 15 has been fully approved by the Board of Nursing.”

(b) Response: The agency understands that the Kentucky Board of Nursing has actually finalized revision of Advisory Opinion #15 in April of this year, the agency understands that any

delegation by a nurse would have to be compliant with the requirements of Kentucky law and the scope of practice as allowed by Kentucky law and by the Kentucky Board of Nursing, the agency understands that the Kentucky Board of Nursing is the actual agency providing the insulin delegation training to nurses, and the agency has approached the planning of the agency's medication administration training in light of these factors as well in keeping with the guidance and training program requirements of the ADA. Therefore coordination, of the creation of this agency's medication administration training program with the Kentucky Board of Nursing's training for nurses' delegation of insulin administration to unlicensed personnel, was essential and appropriate for inclusion in the agency's administrative regulation. To that end and to ensure timely school district compliance with the requirements of HB 98 (2014) which went into effect this summer, this agency has already coordinated the planning of the medication administration training with the Kentucky Board of Nursing and provided this agency's training this summer and learned that the Kentucky Board of Nursing, in collaboration with the Kentucky School Nurses Association, has provided the insulin administration delegation training to school nurses. The agency has made no changes to the administrative regulation as a result of this comment.

3. Subject Matter: Dental health data and services

(a) Comment: The Kentucky Youth Advocates and the Kentucky Oral Health Coalition commented that there is lack of clarify or confusion on "who can conduct the [dental] screenings"; "training required for conducting screenings", "how to fill out the screening form", "accountability in following the regulations at the school and district levels", and "lack of guidance or process to ensure that children get treatment if there are urgent needs...." This commenter also commented that "we are also interested in utilizing the opportunity that the screening affords to collect data on the health of Kentucky's children.... We recommend a more robust data entry and analysis process using Infinite Campus. It is recommended that the Cabinet for Health and Family Services and the Kentucky Department for Education work out an agreement for ensuring that this critical information about children's oral health does not just collect in file drawers all across the state. According to KRS 156.160(i), the administrative regulations shall **require evidence** that a dental screening or examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. We recommend an annual report to be submitted to the Kentucky Board of Education that would include data collected from Infinite Campus on oral health as a method of evidence on the macro level.

KOHC proposes the following changes...: Establish a systemic referral process for children identified with decay.... Expand training to nurses and other health professionals such as pediatricians.... Require, enforce, and incentivize data entry from the screening form (at least in the aggregate).... Create linkage agreements with community health professionals and schools.... Update the form for clarity and standardization. Ensure that the form is distributed and educated to those who need it, such as dentists, nurses and pediatricians."

The commenter also recommended aggregating and reporting the employee dental health data collected on the Medical Examination of School Employees, KDESHS001.

The commenter recommended, regarding Preventative Student Health Care Examination Form, KDESHS002, "[i]nput height, weight and 'gross dental' information to Infinite Campus", "inclusion of dental or oral health problems" on the second page's information about "problems that may impact the educational experience", amend the language from "Normal or Abnormal"

to “No obvious cavities visible or possible cavities visible” under the “Gross dental (teeth and gums)” portion of the form. The commenter recommended changes to the Kentucky Dental Screening/Examination Form For School Entry, KDESHS005, to include referral information.

The commenter recommended promotion of the Smiles for Life dental screening training program by the agency and incorporation as a document by reference into this administrative regulation.

The commenter recommended addition of dental health information to the Student’s Cumulative Health Record, KDESHS006.

The commenter recommended the agency “[i]mprove outreach educational information to all health professionals filling out the screening/examination form by partnering with Department of Public Health and other professional associations.”

Finally, the commenter recommended inclusion of additional and more specific dental health data in the End-Of-Year Health Reports.

(b) Response: This agency is as well concerned for the dental health of school district staff and all students in our state and recognizes the importance of dental health to educational success. To that end, the form for the dental screening required for initial entry to school in Kentucky already has a requirement for information from the dental screener, including an assessment as to whether the exam resulted in a conclusion that there is “no obvious [dental] problem”, that “early dental care needed”, or that a “referral for urgent [dental] care” is appropriate. The agency’s form also requires additional information from the dental screener detailing the referral for urgent dental care. The agency has amended the form to clarify who can be a dental screener.

While dental screening is required for initial entry to school, there is no additional dental data collection requirement in law for public school districts. As well, the pragmatic reality is that even if the agency determined that public school districts could and should commence the suggested collection of dental data for public school students, this compilation of data would not include children who were not enrolled in public schools in our state and would not provide a holistic picture of the dental health of children throughout our state, which appears to be the intent and purpose of the comment. As well, the agency does not find that school districts, as employers, should be required to monitor their employees’ dental health through the collection of employee dental health data. The overall commenter’s comments reflected concerns for the dental health of Kentuckians throughout their lives, not just during their school years. For these reasons, the agency believes that the Department for Public Health (DPH) is the more appropriate agency to spearhead the efforts suggested by these comments. As stated on the website for the Cabinet for Health and Family Services at <http://chfs.ky.gov/dph/mch/cfhi/oralhealth.htm>, “The Kentucky Oral Health Program (KOHP) (formerly the Dental Health Program) has a long and proud history with the Department for Public Health.” The DPH has a State Dental Director and a Statewide Oral Health Strategic Plan. The DPH could collect data on the oral health of Kentuckians statewide, from more than just currently enrolled public school students, and for all stages of life. The commenter is actually involved with the DPH in current efforts toward this end and, as stated on its website at <http://chfs.ky.gov/dph/mch/cfhi/dentalhealth.htm>, the DPH’s “Kentucky Oral Health Program

has received federal grants that supported 24 counties to create community coalitions aimed at improving dental health among children and adults throughout Kentucky. Currently, more funding is allowing up to 10 more coalitions to be established in Kentucky.” The DPH and the commenter could collaborate, with the assistance of these or additional grants, to accomplish the dental health and dental data goals described in this comment.

The agency believes that the intent of the statutory authority granting the agency the ability to promulgate this administrative regulation is to ensure initial dental screening of students and appropriate referrals, as necessary. The agency believes that this intent is currently being met. The comment that suggests school districts take a role beyond this statutory intent are therefore well-intended, but do not appear to make suggestions which are appropriate for the school district activity in this regard. No changes to the administrative regulation have been made in response to this comment.

4. Subject Matter: Technical edits

(a) Comment: The Boyle County Schools commented that the word “preventative” should be changed to “preventive” throughout the regulation and on all associated forms; that “on page 6, line 12(e) The line be changed to: The name of a family health care provider (rather than physician)””; that “a line for dental [needs to] be added to the student’s cumulative health record”; and that the Medical Examination of School Employees form, on the signature line at the bottom “‘ARNP’ [needs to] be corrected to ‘APRN’”.

(b) Response: The agency has reviewed these suggested changes and made changes to the administrative regulation in response to the “preventive” comment, the “physician” language comment, and Medical Examination of School Employees form comment. The agency believes that the dental screening information included in the dental health screening form is sufficient to provide notice to school district staff of any dental health concerns and need for referral and therefore has not made the commenter’s suggested change to the student’s cumulative health record form incorporated by reference into this administrative regulation. However, to clarify that the cumulative health record form includes any dental screenings other than the initial dental screening, already reflected on the Kentucky Dental Screening/Examination Form for School Entry, KDESHS005, additional language clarifying this point has been added to Section 3 of the administrative regulation.

5. Subject Matter: School health coordinator qualifications

(a) Comment: The Kentucky School Boards Association (KSBA) commented that the qualification requirements of the amended regulation are impractical because “the EPSB certification regulation referenced in this regulation [as the basis for qualification to be a school health coordinator] provides a school health coordinator would have to have either a school nurse certification or a classroom teacher certification. We [KSBA] have spoken with an official of the EPSB who has informed us that currently there are not any Kentucky institutions offering an approved school nurse certification program. Further, we [KSBA] feel it is more practical to have a health professional in this position than to have a classroom teacher who cannot supervise the health services functions of district nurses.”

(b) Response: The agency agrees with this comment and has made changes to the administrative regulation as a result of this well-informed comment.

Summary of Statement of Consideration Action Taken by Promulgating Administrative Body

The Kentucky Department of Education received and has responded to five comments from the public regarding proposed amendments to 702 KAR 1:160. Commenters requested the addition of specific language requiring that diabetes care task training for school district employees be consistent with the American Diabetes Association's (ADA) training programs and guidelines. In response to concerns about the diabetes care training program requirements, the agency has clarified in this document that the training for delegation by nurses of insulin administration to school staff is provided by the Kentucky Board of Nursing, not by this agency, and has clarified in this document that the training for delegation of other medications to school staff is provided by this agency and is compliant with the ADA training programs and guidelines, as required by HB 98 (2014).

Commenters requested technical editing changes to the administrative regulation and its documents incorporated by reference. The agency has changed "preventative" to "preventive" throughout the administrative regulation and the documents incorporated by reference. The agency has made other technical correction edits to the administrative regulation and its documents incorporated by reference.

Commenters requested the agency amend the administrative regulation so that school districts would be required to duplicate currently collected dental health data on multiple forms. The agency has amended the language of Section 3 of the administrative regulation to clarify that the cumulative health record form would include any additional dental screenings of students beyond the initial dental screening which is already reflected on the Kentucky Dental Screening/Examination Form for School Entry, KDESHS005.

Commenters requested that the agency add many dental health data collection requirements for children and adults to the administrative regulation and its documents incorporated by reference, and commenters requested that the agency require public school districts to provide additional dental health data services to students and to others involved in dental health screening and care. The agency has not made changes to this administrative regulation or its forms due to the scope of the statutory authority for school district dental health screening of students and due to the fact that school districts do not have access to dental health information for children in the state who are not enrolled in public school. The agency has clarified that the initial dental health screening form already does require conclusory information from the dental screener regarding the outcome of the initial dental screening and whether the exam resulted in a conclusion that there is "no obvious [dental] problem", that "early dental care needed", or that a "referral for urgent [dental] care" is appropriate and the agency's form also already requires additional information from the dental screener detailing information about the referral for urgent dental care. Finally, the agency stated in this document that the Department for Public Health and its oral health programs may be the more appropriate state agency for these additional statewide dental health efforts for all Kentuckians through every stage of life.

Commenters requested revision of the school health coordinator qualification requirements due to pragmatic concerns with the ability to meet these qualification requirements. The agency has responded by amending these requirements.

The agency proposes the following amendments after comments to the administrative regulation:

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 16

Before “student”, delete “preventative”.
Insert “preventive”.

Page 3

Section 2

Line 20

Before “Student”, delete “Preventative”.
Insert “Preventive”.

Page 3

Section 2(1)(a)

Line 21

After “a”, delete “preventative”.
Insert “preventive”.

Page 4

Section 2(2)

Line 3

After “a”, insert “preventive”.
Delete “preventative”.

Page 4

Section 2(3)

Lines 6

After “a”, insert “preventive”.
Delete “preventative”.

Page 4

Section 2(4)

Line 7

After “A”, insert “preventive”.
Delete “preventative”.

Page 4

Section 2(5)

Line 12

After “A”, insert “preventive”.

Delete “preventative”.

Before “Student”, delete “Preventative”.
Insert “Preventive”.

Page 4

Section 2(5)

Line 14

Before “Student”, delete “Preventative”.
Insert “Preventive”.

Page 5

Section 2(7)

Line 7

Before “student”, delete “preventative”.
Insert “preventive”.

Page 6

Section 3(1)(c)

Line 14

Before “dental”, insert “any”.
After “dental”, insert “screenings other than the initial dental screening recorded on the Kentucky Dental Screening/Examination Form for School Entry, KDESHS005”.

After “of a”, insert “health care provider”.
Delete “physician”.

Page 7

Section 4(1)

Lines 19-21

After “the”, insert “following” and after “qualifications” insert “:”.
Delete “required of this position as determined by the Education [Educational] Professional Standards Board in 16 KAR 4:010, Section 12”.
Insert “(a) A valid license to practice as a registered nurse, issued under KRS 314.041 by the Kentucky Board of Nursing, and three (3) years of registered nursing practice, as defined in KRS 314.011(6);
(b) A school psychologist certificate, issued by the Education Professional Standards Board (EPSB) pursuant to 16 KAR 2:090, and three (3) years of related work experience in a school setting; or
(c) A school social worker certificate, issued by the EPSB pursuant to 16 KAR 2:070, and three (3) years of work experience practicing social work in a school setting”.

Page 8

Section 6(1)(b)

Line 14

Before “Student”, insert “Preventive”.

Delete “Preventative”.

The agency proposes the following changes to the material incorporated by reference:

Medical Examination of School Employees, KDESHS001

Signature line

After “PA/”, delete “ARNP”.

Insert “APRN”.

Preventative Student Health Care Examination Form, KDESHS002

Title

Before “Student”, delete “Preventative”.

Insert “Preventive”.

First sentence

Before “health care examination”, delete “preventative”.

Insert “preventive”.

Instructions

After “PLEASE COMPLETE THE”, delete “IDENTIFYING”.

Insert “IDENTIFYING”.

Student’s Cumulative Health Record, KDESHS006

Technical correction of the word “Last” under the student name line.

Education and Workforce Development Cabinet

Kentucky Board of Education

Department of Education

(Amended After Comments)

702 KAR 1:160. School health services.

RELATES TO: KRS 156.160(1)(~~g~~)(h), (i), (j), 156.501, 156.502, 158.035, 158.160, 161.145, 214.034, 214.036, 29 C.F.R. 1910.1030

STATUTORY AUTHORITY: KRS 156.070, 156.160(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1)(h) [~~156.160(1)(g)~~] requires the Kentucky Board of Education to promulgate administrative regulations governing medical inspection, physical and health education and recreation, and other administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children. KRS 156.160(1)(i) and (j) [~~156.160(1)(h) and (i)~~] require the board to promulgate an administrative regulation governing a required vision examination and a dental screening or examination. This administrative regulation establishes [~~standards and~~] criteria for **preventive** [~~preventative~~] student health care examinations at the local school district level.

Section 1. School Employee Medical Examinations. (1) Except as provided in subsection (2) of this section, a local board of education shall require a medical examination of each certified or classified employee, including each substitute teacher. The medical examination shall:

- (a) Be conducted prior to initial employment; and
- (b) Include a tuberculosis (TB) risk assessment.

1 1. If the individual is identified by that assessment as being at high risk for TB, the individual
2 shall be required to undergo the administration of a tuberculin skin test (TST) or a blood test for
3 Mycobacterium tuberculosis (BAMT).

4 2. The TB risk assessment shall be performed and reported by a physician, an advanced practice
5 registered nurse, a physician's assistant, or a registered nurse.

6 (2) The medical examination requirement shall not apply to school bus drivers who are covered
7 by 702 KAR 5:080.

8 (3) A local board of education may require by policy that a school employee physical
9 examination be conducted no earlier than a ninety (90) day period prior to initial employment.

10 (4) A medical examination shall be reported on the form Medical Examination of School
11 Employees, KDESHS001, or an electronic medical record that includes all of the data equivalent
12 to that on the Medical Examination of School Employees form.

13 (5) A person who tests positive for TB shall be required to comply with the directives of the local
14 board of health and the Kentucky Department for Public Health for further evaluation and
15 treatment of the TB infection.

16 (6)(a) Following the required medical examination for initial employment and any subsequent
17 examinations as may be required for positive tuberculin reactors, a school district employee other
18 than a bus driver shall submit to the local school superintendent the completed Medical
19 Examination of School Employees form or an electronic medical record that includes all of the
20 data equivalent to that on the Medical Examination of School Employees form ~~[from]~~ required
21 by subsection (4) of this section.

22 (b) The medical examination shall be performed and signed for by a physician, physician's
23 assistant, or an advanced practice registered nurse. Transmission of an electronic medical record

to the school district via email from the health care provider's office may be accepted as the official signature.

(7) Documentation of a TST, BAMT, and chest x-ray, if performed, shall include:

(a) The date given;

(b) Type of test;

(c) Millimeters of induration;

(d) Date read and by whom; and

(e) Date x-ray taken and results as related to TB status.

(8)(a)1. A local board of education shall require all school personnel exhibiting symptoms of chronic respiratory disease to undergo a TB risk assessment and examinations as indicated.

2. The evaluation and any recommended treatment for TB infection shall be based upon the directives of the local board of health and the Kentucky Department for Public Health.

(b) An employee exposed to infectious TB shall be tested and, if necessary, treated for TB infection according to the directives of the local board of health.

(c) In a county with an incidence of cases of active TB that is equal to or greater than the national average as established by the Department for Public Health, Division of Epidemiology and Health Planning, Tuberculosis Prevention and Control Program, the local board of health may, with the approval of the Kentucky Department for Public Health, require more extensive testing of school district employees for TB.

Section 2. Preventive [~~Preventative~~] Student Health Care Examinations. (1)(a) A local board of education shall require a preventive [~~preventative~~] health care examination for students within one (1) year prior to initial entry to school.

(b) A second examination shall be required within one (1) year prior to entry into the sixth grade.

(c) A third examination may be required by policy of the local board of education within one (1) year prior to entry into the ninth grade.

(2) An out-of-state transfer student shall be required to submit documentation of a **preventive** **[preventative]** health care examination.

(3) A local ~~[school]~~ board of education may extend the deadline by which to obtain a **preventive** **[preventative]** student health care examination, not to exceed two (2) months.

(4) A **preventive** **[preventative]** student health care examination shall be performed and signed for by a physician, an advanced practice registered nurse, a physician's assistant, or by a health care provider in the early periodic screening diagnosis and treatment programs. Transmission of an electronic medical record to the school district via email from the health care provider's office may be accepted as the official signature.

(5) A **preventive** **[preventative]** student health care examination shall be reported on the **Preventive** **[Preventative]** Student Health Care Examination Form, KDESHS002, or an electronic medical record that includes all of the data equivalent to that on the **Preventive** **[Preventative]** Student Health Care Examination Form, and shall include:

(a) A medical history;

(b) An assessment of growth and development and general appearance;

(c) A physical assessment including hearing and vision screening; and

(d) Recommendations to the school regarding health problems that may require special attention in classroom or physical education activities.

(6)(a) A vision examination shall be reported on the form, Kentucky Eye Examination Form for School Entry, KDESHS004, or other electronic medical record that includes all of the data equivalent to that on the Kentucky Eye Examination Form for School Entry.

(b) A dental screening or examination shall be reported on the form, Kentucky Dental Screening/Examination Form for School Entry, KDESHS005, or other electronic medical record that includes all of the data equivalent to that on the Kentucky Dental Screening/Examination Form for School Entry.

(7) ~~[A record of immunization shall be submitted on an Immunization Certificate, EPID-230.~~

~~(8)]~~ A local school district shall establish a plan for implementation and compliance required for the sixth grade **preventive** ~~[preventative]~~ student health care examination.

~~(8) [(9)]~~ A current Immunization Certificate, EPID-230, incorporated by reference into 902 KAR 2:060, or an immunization certificate meeting the requirements of 902 KAR 2:060 Section 4, shall be on file within two (2) weeks of the child's enrollment in school.

~~(9) [(10)]~~ (a) A board of education shall adopt a program of continuous health supervision for all currently enrolled students ~~[school-enrollees]~~.

(b) Supervision shall include scheduled, appropriate screening tests for vision and hearing.

~~(10) [(11)]~~ A school shall have emergency care procedures, which shall include:

(a) First aid facilities meeting the requirements of 702 KAR 4:170, including provisions for designated areas for the child to recline;

(b) A requirement that whenever children are present during school hours, there shall be at least one (1) adult present in the school who is certified in a standard first aid course which includes CPR for infants and children;

(c) A requirement that, at all times when enrolled students, for whom documentation under KRS 158.838(2) or (7) has been provided to the school, are present during school hours or participating in school-related activities, there is a school employee who is trained to administer and can administer or assist with the self-administration of glucagon, insulin, or seizure rescue

medications. A student shall be permitted to conduct the actions and possess the supplies and equipment described in KRS 158.838(7) at school-related activities regardless of whether the student is a participant or mere observer of the school-related activity;

(d) A number at which parents can be reached; and

(e) ~~[(d)]~~ The name of a family physician.

~~[(12) A local board of education shall require immunizations as required by KRS 214.034.]~~

Section 3. Cumulative Health Records. (1) A school shall initiate a cumulative health record for each student ~~[pupil]~~ entering its school.

(a) The record shall be maintained throughout the student's ~~[pupil's]~~ attendance.

(b) The record shall be uniform and shall be on the form Student's ~~[Pupil's]~~ Cumulative Health Record, KDESHS006, or the record shall be maintained electronically in the student information system.

(c) The record shall include screening tests related to growth and development, vision, hearing, and any dental screenings other than the initial dental screening recorded on the Kentucky Dental Screening/Examination Form for School Entry, KDESHS005, and findings and recommendations of a health care provider ~~[physician]~~ and a dentist.

(d) A follow-up by the proper health or school authorities shall be made on each abnormality noted, and the result shall be recorded.

(2) A local school district ~~[authority]~~ shall report all known or suspected cases of communicable disease immediately to the local health department.

Section 4. School District Health Personnel. ~~(1) [Physical Environment. (1) A board of education shall provide and maintain a physical environment that is conducive to the health and safety of school children in each school under its jurisdiction.~~

~~(2) A local board of education shall comply with current laws and administrative regulations applicable to all public buildings pertinent to health, sanitation, and safety.~~

~~(3) A local board of education shall establish and maintain:~~

~~(a) An adequate supply of water of safe, potable, sanitary quality;~~

~~(b) A state approved sanitary disposal of sewage, other water carried waste, and solid waste;~~

~~(c) Adequate toilet and lavatory facilities, including soap or detergent as well as towels or other methods for drying hands, and other sanitary fixtures;~~

~~(d) Adequate heating, lighting, and ventilation in all school buildings;~~

~~(e) Adequate facilities and equipment for cafeterias and lunchrooms;~~

~~(f) Supervision of general sanitation and safety of the school buildings, grounds, and playground equipment;~~

~~(g) Beginning with the 2010-2011 school year, proof that all unlicensed school personnel who have accepted delegation to perform medication administration in school have completed a training course provided by the Kentucky Department of Education. This course shall be developed in consultation with the Kentucky Board of Nursing to ensure compliance with 201 KAR 20:400;~~

~~(h) Adequate control of air pollutants; and~~

~~(i) Universal precautions guidelines compatible with Occupational Safety and Health Administration requirements established in 803 KAR 2:320 and 29 C.F.R. 1910.1030.~~

~~Section 5.] A superintendent shall designate a person to serve as school health coordinator for the district. [(4)] The person designated shall meet the **following** minimum qualifications:~~

1 (a) A valid license to practice as a registered nurse, issued under KRS 314.041 by the
2 Kentucky Board of Nursing, and three (3) years of registered nursing practice, as defined
3 in KRS 314.011(6);

4 (b) A school psychologist certificate, issued by the Education Professional Standards Board
5 (EPSB) pursuant to 16 KAR 2:090, and three (3) years of related work experience in a
6 school setting; or

7 (c) A school social worker certificate, issued by the EPSB pursuant to 16 KAR 2:070, and
8 three (3) years of work experience practicing social work in a school setting ~~[required of~~
9 ~~this position as determined by the Education~~ [Educational] ~~Professional Standards Board~~
10 ~~in 16 KAR 4:010, Section 12,~~ or by the Kentucky Department of Education in the Local District
11 ~~Classification Plan for Class Code: 7271, as indicated in the document Setting Up Employee~~
12 ~~Classification Codes].~~

13 (2) ~~[Class Title: School Health Coordinator for the district.]~~ The school health coordinator shall
14 work in cooperation with all school personnel, the local board of education, the department
15 ~~[State Department of Education]~~, the local health department, and family resource and youth
16 services centers, ~~[and parents]~~ in ~~[planning,]~~ promoting~~;~~ and implementing a school health
17 services program.

18 Section 5. Delegation to Perform Medication Administration. (1) A local board of education
19 shall require proof that all unlicensed school personnel who have accepted delegation to perform
20 medication administration in school have completed a training course provided by the
21 department or allowed under KRS 158.838(1)(c). The department's course shall be developed in
22 consultation with the Kentucky Board of Nursing to ensure compliance with 201 KAR 20:400
23 and KRS 156.502.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) “Medical Examination of School Employees”, KDESHS001, January 2015 ~~[February 2012]~~;

(b) “**Preventive** ~~[Preventative]~~ Student Health Care Examination Form”, KDESHS002, January 2015 ~~[February 2012]~~;

(c) “Student’s ~~[Pupil’s]~~ Cumulative Health Record”, KDESHS006, January 2015 ~~[March 2012]~~;

(d) ~~“Setting Up Employee Classification Codes”, March 2012;~~

~~(e)~~ “Kentucky Eye Examination Form for School Entry”, KDESHS004, January 2015 ~~[March 2012]~~; and

~~(c) [(f) “Immunization Certificate”, EPID-230, August 2010;~~

~~and~~

~~(g)~~ “Kentucky Dental Screening/Examination Form For School Entry”, KDESHS005, January 2015 ~~[March 2012]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of District Support, Department of Education, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

(Date)

Terry Holliday, Ph.D.
Commissioner of Education

(Date)

Roger L. Marcum, Chairperson
Kentucky Board of Education

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 702 KAR 1:160

Agency Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements several statutory provisions dealing with school health and safety. The administrative regulation describes, for both school district employees and students the necessary forms that are to be completed and the data that should be maintained for each individual.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement provisions of KRS 156.160(1)(h), (i), and (j), 156.501, 156.502, 158.035, 158.160, 161.145, 214.034, 214.036, and 29 C.F.R. 1910.1030 that set forth the state and federal health data requirements dealing with school health and safety.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides specifics for establishing the process and procedures for implementing the required health data collections by local school districts.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides specifics for establishing the process and procedures for implementing the required health data collections by local school districts.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The proposed amendments include the following changes: Changes include updates to language allowing electronic medical records to be submitted to schools, updates to language allowing the acceptance of electronic signatures, and updates language to more clearly define when a school employee must be available to assist with medication administration.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to implement HB 98 passed in the 2014 Regular Session of the General Assembly.

(c) How the amendment conforms to the content of the authorizing statute: This administrative regulation governs medical examinations necessary and advisable for the protection of physical welfare and safety of public school children and public school employees.

(d) How the amendment will assist in the effective administration of the statutes: The electronic medical records and signatures will streamline health data collection processes used by local public school districts.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public school districts in Kentucky and health care providers who will use the forms incorporated by reference.

(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: The administrative regulation will impact school districts and health care providers by standardizing and streamlining the health data collection process.

(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: Health care providers will continue to provide local school districts with health data utilizing the forms incorporated by reference. While physicians are not 'regulated entities' under this regulation and they use the forms by choice, physicians can also provide the information electronically as long as it has the same information.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional cost to school districts or the Department of Education other than minimal administrative costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The health data collected by local school districts will be in alignment with state and federal requirements and will inform districts about the health conditions and needs of their students.

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

(a) Initially: There will be no additional cost to school districts or the Department of Education other than minimal administrative costs to update referenced documents for recording health data in the student information system.

(b) On a continuing basis: There will be no additional cost to school districts or the Department of Education other than minimal administrative costs and minimal costs associated with required staff training.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The minimal administrative and training costs will be absorbed in the general operating funds.

(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 will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 702 KAR 1:160
Contact Person: Kevin C. Brown
Phone number: 502-564-4474

1. What units, parts or divisions of state local or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?
School districts
2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.160(1)(h), (i), and (j), 156.501, 156.502, 158.035, 158.160, 161.145, 214.034, 214.036, and 29 C.F.R. 1910.1030.
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no additional revenue generated by this administrative regulation. No additional costs are expected, other than minimal administrative costs and minimal costs associated with required staff training.
 - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?
None
 - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None
 - (c) How much will it cost to administer this program for the first year? Undeterminable minimal costs
 - (d) How much will it cost to administer this program for subsequent years? Undeterminable minimal costs

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: No additional costs are expected, other than minimal administrative costs and minimal costs associated with required staff training. Designated unlicensed personnel currently undergo training to administer or assist with administration of medicines. Districts will need to track additional training acquired by staff to administer or assist with administration of glucagon, insulin or seizure rescue medications.

Summary Page – Incorporation by Reference

702 KAR 1:160. School health services

- (1) The following documents are incorporated by reference:
 - (a) “Medical Examination of School Employees”, KDESHS001, January 2015;
 - (b) “Preventive Student Health Care Examination Form”, KDESHS002, January 2015;
 - (c) “Student’s Cumulative Health Record”, KDESHS006, January 2015;
 - (d) “Kentucky Eye Examination Form for School Entry”, KDESHS004, January 2015; and
 - (e) “Kentucky Dental Screening/Examination Form For School Entry”, KDESHS005, January 2015.
- (2) These documents are used in school health data collection.
- (3) The documents incorporated by reference consist of (7) pages.

Summary of Changes

Document	Changes
“Medical Examination of School Employees”, KDESHS001	Insert reference to the authorizing regulation and the effective date of the form in the footer, and change “ARNP” to “APRN” in signature line.
“Preventive Student Health Care Examination Form”, KDESHS002	Change “Preventative” to “Preventive” and inserted the page number, a reference to the authorizing regulation, and the effective date of the form in the footer.
“Student’s Cumulative Health Record”, KDESHS006	Technically correct the word “Last” under student’s name site, add end punctuation to a sentence on the second page, and insert reference to the authorizing regulation and the effective date of the form in the footer.
“Kentucky Eye Examination Form for School Entry”, KDESHS004	Insert reference to the authorizing regulation and the effective date of the form in the footer.
“Kentucky Dental Screening/Examination Form For School Entry”, KDESHS005	Insert reference to the authorizing regulation and the effective date of the form in the footer. Also added a notice to nurses to use the Kentucky Board of Nursing Scope of Practice

	when conducting the screening.
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