

STATEMENT OF CONSIDERATION

Relating to 702 KAR 7:056 Designation of agent to manage middle and high school interscholastic athletics

Kentucky Department of Education

Amended After Comments

(1) The public hearing on 702 KAR 7:065 was held on July 23, 2013 at 10:00 a.m. in the State Board Room, Kentucky Department of Education, pursuant to KRS 13A.270. Written comments were also received during the public comment period.

(2) The following individuals attended this public hearing or submitted written or verbal comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Dan Seum, Jr., Board Member	Kentucky Middle School Football Association (KYMSFA)
Malicia T. Hitch, Staff Attorney	Protection & Advocacy
Greg E. Mitchell	Kentucky Middle School Football Association (KYMSFA)

(3) The following people from the promulgating administrative body or its designated agent attended this public hearing or responded to the written comments:

Name and Title
Julian Tackett, Chief Executive Officer, Kentucky High School Athletic Association
(KHSAA)
Chad Collins, Board and Staff Counsel, KHSAA
Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of
Education (KDE)
Amy Peabody, Assistant General Counsel, KDE
David Wickersham, Assistant General Counsel, KDE
Tracy Herman, Legislative Liaison, KDE
Robin Chandler, Policy Advisor, KDE
Sean Elkins, Consultant, KDE
Christine Duke, Consultant, KDE
Melinda Curless, Consultant, KDE

Summary of Comments and Responses

1) Subject Matter: Limit on number of middle school athletic competitions

- a) Comment: Dan Seum, Jr. (KYMSFA) commented that the administrative regulation's addition of a limit on the number of athletic competitions at the middle school level would negatively impact organizations like KYMSFA that conduct post-season play-off tournaments and would negatively impact students who participated in middle school sports and the previous tradition of middle school teams playing more games than high school limit allows. The commenter stated that his organization's study did not reveal any empirical data supporting a conclusion that there is a need for this limit on the number of middle school athletic competitions; that there is a difference in the level of intensity, the practice hours, the weight of the student athletes, and the physical contact during the games than occurs in high school athletics; that there is no harm from exceeding such a limit in middle school athletics; and that there is no need for the creation and implementation of a limit on the number of games scheduled for middle school athletic teams.
- b) Response: No change appears necessary as a result of this comment. The concerns raised in this comment largely focus on the impact the administrative regulation would have on post-season play-off tournaments and also focuses on the comparison of safety considerations at the middle versus high school levels. This administrative regulation would not have any impact on post season events whether they are team (e.g., association championship) or individual recognition (e.g., all-star games) events. In addition, the agency disagrees that the health and safety concerns and resulting limitations implemented for high school sports are inapplicable or inappropriate for use at the middle school level. Therefore, as the issues raised in this comment are not affected or limited by the administrative regulation, no changes are needed.
- 2) Subject Matter: Prohibition on participation of retained students in middle school competitions
- a) Comment: Malicia T. Hitch (Protection & Advocacy) commented that the administrative regulation's prohibition of the participation of retained students, students who have been retained in a grade, in middle school competitions would negatively and unnecessarily impact those students who are receiving special education services under the Individuals with Disabilities Education Act and whose grade placement is decided by the Admissions and Release Committee (ARC), not just based on the school administration's decision under KRS 158.140. The commenter stated that, though the age limit for participation on high school athletic competition is generally eighteen (18) years of age, the administrative regulation allows for the participation of a student who is nineteen (19) years of age if the student was retained in the primary school program due to an ARC recommendation. The commenter stated that the administrative regulation's relevant language reads:

“Require that no student be able to compete in middle school competition that is repeating a grade for any reason;”

The commenter suggested that this provision of the administrative regulation should instead read:

“Require that no student be able to compete in middle school competition that is repeating a grade unless:

- (a) The student qualifies for exceptional children services and an individual education plan developed by an admission and release committee (ARC) while the student was enrolled in the middle school program; and
- (b) Was retained in the middle school program because of an ARC recommendation.”

b) Response: A change was made as a result of this comment. Because the commenter raises questions related to IDEA, this is a matter ripe for future consideration by the permanent Middle School Advisory Committee created by the administrative regulation. Therefore, this particular provision will be removed from the administrative regulation and the subject of future consideration by the permanent Middle School Advisory Committee created by the administrative regulation. While we concur with the sentiment of the proposed substitute language from the commenter, inclusion of the proposed language in future versions of the administration regulation requires additional consideration of its effect and intersection with the requirements of other school laws.

3) Subject Matter: Application of high school rules at the middle school level

- a) Comment: Greg E. Mitchell (KYMSFA) commented that high school rules related to subjects such as the sports medicine provisions including the heat illness and heat index programs, as well as the concussion and other head injury policies, should not be immediately implemented. The commenter also stated that middle schools had inadequate time or resources to implement these provisions and that a delay should be considered in implementation of any such provisions.
- b) Response: No changes have been made as a result of this comment. According to Section 3 of the administrative regulation, the provisions that are the subject of the comment do not take effect until the 2014-2015 school year. Therefore, the individual middle schools will have nearly one year to review and to meet the requirements of these provisions. This should provide adequate time for the schools to train and ensure proper implementation. Further, the resources necessary to

conform to the requirements of the administrative regulation are not significant in terms of cost and the schools have adequate time to secure these resources. Finally, it is important to note that some of these policies (e.g., concussion and other head injury policies) are already required by KRS 160.445(1)(a) as amended by the Kentucky General Assembly during the 2012 Regular Session. The Task Force on Middle School Interscholastic Athletics formed by HCR 155 of the 2012 Regular Session specifically stated: "The Kentucky Board of Education or its designee should require all middle school athletic teams to follow existing Kentucky High School Athletic Association rules related to physical examinations, medical coverage, heat index, and concussions." In light of this recommendation and the importance of the health and safety of the students affected by this administrative regulation, no changes appear necessary in light of this comment.

4) Subject Matter: Coaching requirements

- a) Comment: Greg E. Mitchell (KYMSFA) commented that the coaching requirements contained in the administrative regulation are too restrictive. The commenter specifically referenced the age requirement.
- b) Response: No changes have been made as a result of this comment. The coaching requirements contained in the administrative regulation reflect the basic statutory requirements for all coaches: a minimum age of 21; criminal background checks and hiring prohibitions based on criminal backgrounds; and graduation from high school. In accordance with KRS 156.070(2)(f)2, any coach is required to be a high school graduate, to be at least 21 years of age, and to submit to the criminal background check described in KRS 160.380. Further, KRS 160.380(4) prohibits the school district from hiring any person to serve in any position in the district if the individual is convicted of a violent offense or a sex crime as defined by KRS 17.165 which is a felony. Because amendment of this administrative regulation implements new regulation of middle school athletics, the agency included the provisions applying these statutory requirements specifically to middle school coaches to ensure and clarify that these requirements applied to middle school coaches. Finally these provisions were also recommended by the Task Force on Middle School Interscholastic Athletics formed by HCR 155 of the 2012 Regular Session.

5) Subject Matter: KHSAA form for medical examination

- a) Comment: Greg E. Mitchell (KYMSFA) commented that the KHSAA form for the middle school athlete's medical examination should not be required and that another form that allows flexibility for middle school athletes could be adopted after further study.

b) Response: No changes have been made as a result of this comment. The administrative regulation requires an annual medical examination for middle school athletes with utilization of the same form which is used at the high school level. KRS 156.070(2)(d) requires an annual medical examination of any student seeking eligibility to participate in any school sport. KRS 160.445(2)(b) requires that any required physical examination and parental authorization include specific educational information related to the nature and risks of concussions and head injuries. This statute also requires parental acknowledgment of receipt of this information. The KHSAA form that is the subject of this comment was specifically designed to comply with the requirements of these statutes whether the student participates at the middle school or high school level. The commenter indicated that his association has adopted an addendum to the KHSAA form that suits the liability needs of his association. So long as the schools and their students use the KHSAA form, there is nothing that prevents the association from having another form that addresses liability for that association separately. As such, no changes to the administrative regulation appear necessary.

6) Subject Matter: Coaching education

a) Comment: Greg E. Mitchell (KYMSFA) commented that there was no requirement that the KHSAA make any course available to middle school coaches and provide information to educate middle school coaches or recognized replacements.

b) Response: No changes have been made as a result of this comment. KRS 160.445(1)(a) requires all interscholastic coaches to complete a sports safety course that consists of training on common injury prevention. This course's content is required to include, but not be limited to, emergency planning; heat and cold illness; emergency recognition; head injuries, including concussions; neck injuries; facial injuries; and principles of first aid. This course is available to anyone, at no cost, through the KHSAA. Any future courses that may be required specifically at the middle school level will be thoroughly considered by the permanent Middle School Advisory Committee created by the administrative regulation.

7) Subject Matter: Limitation of seasons and the number of contests

a) Comment: Greg E. Mitchell (KYMSFA) commented that there were concerns on the ability to participate in post-season play, and how games limitations would be counted. The commenter specifically cited post-playoff events such as the East-West All-Star Game as well as how 7th grade games will be counted along with 8th grade games.

- b) Response: No changes have been made as a result of this comment. As the administrative regulation states, these limits will be the same as that at the high school level. Because the high school limits do not limit post-season events whether they are team (e.g., association championship) or individual recognition (e.g., all-star games) events, they have no impact on the events or activities mentioned in the comment. Further, as it relates to game limitations, the limit is based on the team level and does not combine teams at different levels such as varsity and junior varsity. As such this would not be any different at the middle school level. A 7th grade team's limits will be counted separately from an 8th grade team's limit. Therefore, as the issues raised in this comment are not affected or limited by the administrative regulation, no changes are needed.

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

The Kentucky Department of Education, with input from the Kentucky High School Athletic Association, the agent designated by the Kentucky Board of Education (KBE) to manage athletics on behalf of the KBE pursuant to KRS 156.070, has responded to comments from the public regarding proposed amendments to 702 KAR 7:065. Three commenters requested changes to the administrative regulation.

A commenter suggested that the administrative regulation should not have the same limitation on the number of competitions at the middle school level as there are at the high school level. The agency did not agree with this suggestion. The commenter was concerned with the anticipated resulting restrictions on post-season team and individual events. The administrative regulation's rules at the high school level do not limit these opportunities and as such will have no impact at the middle school level and those like opportunities. A commenter suggested changes to the provision of the administrative regulation that restricted participation by any student that was repeating a grade. The agency did agree that further consideration on this issue was in order. As the restriction was not health or safety based, it was removed along with another similar provision. A commenter suggested that the application to middle schools of high school rules, related to sports safety, not be immediately implemented because of resource and timing concerns. The agency did not agree with this comment as many of the requirements are already required by statute. Further, the requirements are not implemented at the middle school level until the 2014-2015 school year. Nearly one full year will be allowed to located equipment and provide training, both of which will not be a substantial cost to the school. A commenter suggested the coaching requirements were too restrictive and would not allow enough coaches at the middle school level. The agency did not agree with these comments as these requirements for middle school coaches are statutorily required for all coaches and the agency intended for the inclusion of these requirements in the administrative regulation to ensure and clarify that these requirements apply to middle school coaches too. A commenter suggested that the KHSAA form for the annual medical exam should be different for the middle school level. The agency did not agree with the comment because the requirement for the medical exam and the contents of the required form are statutorily driven and contain specific information required by law. The permanent Middle School Advisory Committee formed as a result of the amendment to the administrative regulation will have the opportunity to review the need for any such changes to

the medical exam form and make recommendations to the agency accordingly. A commenter raised concerns that there were no requirements for the KHSAA to make any course available to middle school coaches and provide information to help educate middle school coaches or recognized replacements. The agency did not agree with the comment as there are courses required by the administrative regulation that are provided by KHSAA at no cost to the school. Many aspects of these courses are further required by statute. This is the same practice at the high school level. Any courses required and provided by the KHSAA will be made available in the same manner as are at the high school level. As for any additional courses that might be identified in the future, this will be studied by the permanent Middle School Advisory Committee and recommended to the agency accordingly. A commenter suggested that the limitations of seasons and the manner in how games be counted should not be the same at the middle school level as that of the high school level. The agency did not agree with the comment. The games specifically identified by the commenter would not be limited and the proposed administrative regulation would not restrict these opportunities. As for the manner in which games are counted, they are by each respective team and no more restrictive than the high school level.

The agency made one revision to the administrative regulation as a result of the 7 comments and no technical edits to the documents incorporated by reference. The agency determined the remaining suggestions from the comments should not be adopted because governing statutes already address the item or the issues raised simply do not warrant changes.

The agency proposes the following changes to the administrative regulation:

Pages 5 and 6

Section 3(2)(g)

Lines 22, 23, and 1

After "(g)", delete the following:

"Require that no student be able to compete in middle school competition that is repeating a grade for any reason;
(h)".

Page 6

Section 3(2)(i)

Line 13

Before "Conduct all meetings", insert: "(h)".

Delete "(i)".

1 **Education and Workforce Development Cabinet**

2 **Kentucky Board of Education**

3 **Department of Education**

4 **(Amended After Comments)**

5 **702 KAR 7:065. Designation of agent to manage middle and high school interscholastic**
6 **athletics.**

7 RELATES TO: KRS 156.070(2)

8 STATUTORY AUTHORITY: KRS 156.070(2)

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(2) requires the Kentucky
10 Board of Education (KBE) to manage and control the common schools, including interscholastic
11 athletics in the schools, and authorizes the KBE to designate an agency to manage athletics. This
12 administrative regulation designates an agent for middle and high school athletics; establishes the
13 financial planning and review processes for the agent; and incorporates by reference the bylaws,
14 procedures and rules of the agent.

15 Section 1. The Kentucky High School Athletic Association (KHSAA) shall be the Kentucky
16 Board of Education's agent to manage interscholastic athletics at the middle and high school
17 level in the common schools, including a private school desiring to associate with KHSAA or
18 [~~and~~] to compete with a common school.

19 Section 2. To remain eligible to maintain the designation as the agent to manage interscholastic
20 high school athletics, the KHSAA shall:

- 1 (1) Accept four (4) at-large members appointed by the Kentucky Board of Education to its high
2 school Board of Control [~~governing body~~];
- 3 (2) Sponsor an annual meeting of its member high schools;
- 4 (3) Provide for each member high school to have a vote on KHSAA constitution and bylaw
5 changes submitted for consideration;
- 6 (4) Provide for high school regional postseason tournament net revenues to be distributed to the
7 member high schools in that region participating in that sport, utilizing a share approach
8 determined by the high schools within that region playing that sport;
- 9 (5) Provide, following a grandfathering period for prior participants, for students desiring to
10 participate at the high school level (regardless of level of play) to be enrolled in at least grade
11 seven (7);
- 12 (6) [~~5~~] Require its governing body to annually establish goals and objectives for its
13 commissioner and perform a self-assessment and submit the results annually to the KBE by
14 December [~~October~~] 31;
- 15 (7) [~~6~~] Advise the Department of Education of all legal action brought against the KHSAA [~~by~~
16 ~~October 31~~];
- 17 (8) [~~7~~] Permit a board of control member to serve a maximum of two (2) consecutive four (4)
18 year terms with no region represented for more than eight (8) consecutive years;
- 19 (9) [~~8~~] Employ a commissioner and evaluate that person's performance annually by October 31,
20 and establish all staff positions upon recommendation of the commissioner;
- 21 (10) [~~9~~] Permit the commissioner to employ other personnel necessary to perform the staff
22 responsibilities;
- 23 (11) [~~10~~] Permit the Board of Control to assess fines on a member high school;

- 1 (12) ~~[(11)]~~ Utilize a trained independent hearing officer instead of an eligibility committee for a
2 high school athletic eligibility ~~[an]~~ appeal;
- 3 (13) ~~[(12)]~~ Establish a philosophical statement of principles to use as a guide in a high school
4 ~~[an]~~ eligibility case;
- 5 (14) ~~[(13)]~~ Conduct continual cycles of field audits of the association's entire high school
6 membership such that each high school is audited over a five (5) year period regarding each
7 school's compliance with 20 U.S.C. Section 1681 (Title IX) and submit annual summary reports
8 including the highlighting of any potential deficiencies in OCR compliance ~~[on a regular (not~~
9 ~~less than three (3) times annually) basis]~~ to the Kentucky Board of Education ~~[as requested]~~;
- 10 (15) ~~[(14)]~~ As a condition precedent to high school membership, require each member high
11 school and superintendent to annually submit a written certification of compliance with 20
12 U.S.C. Section 1681 (Title IX);
- 13 (16) ~~[(15)]~~ Conduct all meetings related to high school athletics in accordance with KRS 61.805
14 through 61.850;
- 15 (17) ~~[(16)]~~ Provide written reports of any investigations into possible violations of statute,
16 administrative regulation, KHSAA Constitution, bylaws, and other rules governing the conduct
17 of high school interscholastic athletics conducted by KHSAA or their designees to the
18 superintendent and principal of the involved school district and school prior to being made
19 public: and
- 20 (18) ~~[(17)]~~ Not punish or sanction, in any manner, a school, student, coach, or administrator for
21 allowing a student to play in an athletic contest or practice with the team during a time when an
22 order of a court of competent jurisdiction permits the student to participate or otherwise stays or
23 enjoins enforcement of a KHSAA final decision on eligibility.

1 Section 3. To remain eligible to maintain the designation as the agent to manage interscholastic
2 athletics at the middle school level, beginning with the 2014-2015 school year the KHSAA shall:
3 (1) Implement the following requirements for all participants in middle school athletics and
4 distribute these requirements to all middle schools and publish via the KHSAA website:
5 (a) Require that any coach (head or assistant, paid or unpaid) desiring to coach interscholastic
6 athletics at the middle school level meet the following requirements:
7 1) Shall be 21 years of age;
8 2) Shall not be a violent offender or convicted of a sex crime as defined by KRS 17.165 that is
9 classified as a felony;
10 3) Shall submit to a criminal record check under KRS 160.380; and
11 4) Shall have graduated from a public or accredited high school.
12 (b) Require the adherence to the following items regarding Safety, Sports Medicine and Risk
13 Minimization for all interscholastic athletics at the middle school level:
14 1. Each student, prior to trying for a place on a middle school athletic team shall provide an
15 annual medical examination performed and signed by a physician, physician assistant, advanced
16 practice registered nurse, or chiropractor (if performed within the professional's scope of
17 practice), for each student seeking eligibility to participate in any school athletic activity or sport
18 using the form approved for use at the high school level.
19 2. All participants at the middle school level shall adhere to all Sports Medicine policies in use at
20 the high school level including:
21 a. Heat Index and Heat Illness programs;
22 b. Wrestling Weight Management programs; and
23 c. Concussion and other head injury policies.

- 1 (c) Create a permanent Middle School Athletics Advisory Committee. This committee shall:
- 2 1. Be autonomous with respect to the Board of Control of the KHSAA;
- 3 2. Be composed of regionally distributed middle school administrators from throughout the state;
- 4 3. Provide an opportunity for nonprofit athletic groups, parents, and others to participate and
- 5 provide input on the sport, athletic event, or athletes involved in interscholastic activities through
- 6 local school districts;
- 7 4. Meet not less than twice annually to review current programs and policies; make
- 8 recommendations for changes in statute, regulation or policy related to middle school
- 9 interscholastic athletics, and assist in the development of model guidelines for school, districts,
- 10 conferences and associations to be used in implementing a middle school athletic program; and
- 11 5. Report regularly to the Commissioner of the KHSAA and issue, in conjunction with the
- 12 Commissioner, a formal written report annually to the Kentucky Board of Education with
- 13 recommendations for changes in statute, regulation or policy;
- 14 (d) Require any organization conducting a school based event at the middle school level to
- 15 submit the following which shall be published on the KHSAA website:
- 16 1. Financial reports of all sanctioned and approved events sponsored by the organization; and
- 17 2. Documentation of financial accountability including verification of federal status and tax
- 18 documents including an annual IRS Form 990;
- 19 (e) Provide notice to the middle schools related to any program conducted by KHSAA related to
- 20 educating school administrators about the provisions of Title IX;
- 21 (f) Provide a mechanism to facilitate the monitoring and tracking capabilities for the middle
- 22 schools to ensure compliance with the provisions of KRS 160.445, and other requirements for
- 23 coaches at the middle school level;

- 1 (g) [Require that no student be able to compete in middle school competition that is
2 repeating a grade for any reason;
- 3 (h) [Require each school/school district/conference or association of schools to develop rules and
4 limitations regarding student participation to include:
- 5 1. A defined age limitation for participating students;
6 2. A policy regarding the participation of students below grade six (6);
7 3. A limitation on practice time prior to the season in any sport or sport activity, such limit not to
8 exceed the practice time adopted for play at the high school level;
9 4. A limitation on the number of scrimmages and regular contests in each sport or sport-activity,
10 such limit not to exceed the allowable number of contests for that sports or sport-activity at the
11 high school level; and
12 5. A limitation on the length of the competitive season in each sport or sport-activity, including
13 any invitational activity following the season, such limit not to exceed the allowable number of
14 contests for that sports or sport-activity at the high school level;
- 15 (h)(i) [Conduct all meetings related to middle school athletics in accordance with KRS 61.805
16 through 61.850;
- 17 (i) [Require that the common schools at the middle school level may only compete in contests
18 against schools that adhere to these provisions;
- 19 (k) [Issue an annual report to the Kentucky Board of Education on the status of interscholastic
20 athletics at the middle school level, including any recommendations for changes in statute,
21 regulation or policy.
- 22 Section 4 [3]. Financial Planning and Review Requirements.
- 23 (1) KHSAA shall annually submit the following documents to the KBE by October 31:

- 1 (a) Draft budget for the next two (2) fiscal years, including the current year;
- 2 (b) End-of-year budget status report for the previous fiscal year;
- 3 (c) Revisions to the KHSAA Strategic Plan as a result of an annual review of the plan by the
- 4 KHSAA governing body;
- 5 (d) A summary report of operations including summaries of financial, legal, and administrative
- 6 actions taken and other items ongoing within KHSAA. This report shall also include a summary
- 7 of items affecting:
- 8 1. Athletic appeals and their disposition including the name of the individual, grade, school, and
- 9 the action taken by KHSAA;
- 10 2. Eligibility rules;
- 11 3. Duties of school officials;
- 12 4. Contests and contest limitations;
- 13 5. Requirements for officials and coaches; and
- 14 6. Results of a biennial review of its bylaws that results in a recommendation for a change,
- 15 directing any proposals for change in association rules to be considered for vote by the member
- 16 schools at the next legislative opportunity; and
- 17 (e) A review of all items which have been submitted to the membership for approval through the
- 18 processes established in the KHSAA Constitution and the result of the voting on those issues.
- 19 (2) The KHSAA shall annually submit at the next meeting of the Kentucky Board of Education
- 20 following receipt and adoption by the Board of Control [by December 31], audited financial
- 21 statements with the KHSAA Commissioner's letter addressing exceptions or notes contained in
- 22 management correspondence, if any.

- 1 Section 5 [4]. The materials incorporated by reference in Section 6 [5] shall apply to middle and
2 high school interscholastic athletics in Kentucky.
- 3 Section 6 [5]. Incorporation by Reference. (1) The following material is incorporated by
4 reference:
- 5 (a) “KHSAA Constitution”, 6/2013 [4/2009];
 - 6 (b) “KHSAA Bylaws”, 6/2013 [5/2012];
 - 7 (c) “KHSAA Due Process Procedure”, 6/2013 [5/2012];
 - 8 (d) “KHSAA Board of Control and Officials Division Policies”, 6/2013 [~~“KHSAA Board of~~
9 ~~Control Policies”, 5/2012;~~
 - 10 (e) [~~“KHSAA Officials Division Guidebook”, 5/2012;~~
 - 11 (e) [(f)] “KHSAA Form BA101- Baseball Pitching Limitation”, 4/2009;
 - 12 (f) [(g)] “KHSAA Form FB102- Football Financial Report”, 9/7/2009;
 - 13 (g) [(h)] [~~“KHSAA Form FB103- Football Spring Football Practice”, 4/2011;~~
 - 14 (i) [~~“KHSAA Form FB109- Football Scrimmage Report”, 7/2009;~~
 - 15 (j) [~~“KHSAA Form FB122- Football Contact Practice Log”, 6/2009;~~
 - 16 (k) “KHSAA Form GE1- Membership Renewal”, 6/2013 [5/2012];
 - 17 (h) [(l)] “KHSAA Form GE2- New Membership Application”, 6/2013 [5/2012];
 - 18 (i) [(m)] “KHSAA Form GE3- Participation List”, 4/2009;
 - 19 (j) [(n)] “KHSAA Form GE4- Physician & Parental Permission Form”, 6/2013 [5/2012];
 - 20 (k) [(o)] “KHSAA Form GE6- Domestic Transfer”, 6/2013 [3/2012];
 - 21 (l) [(p)] “KHSAA Form GE7- Non Domestic Eligibility “, 6/2013 [3/2012];
 - 22 (m) [(q)] “KHSAA Form GE14- Contract for Athletic Contests”, 4/2009;
 - 23 (n) [(r)] “KHSAA Form GE16- Statutory Waiver of Bylaw 3”, 3/2012;

- 1 ~~(o) [(s) "KHSAA Form GE18- Survey for Sports Offerings", 3/2012;~~
- 2 ~~(t) "KHSAA Form GE19-Title IX Procedures Verification", 5/2011;~~
- 3 ~~(p) [(u)] "KHSAA Form GE20- Heat Index Record", 4/2009;~~
- 4 ~~(q) [(v)] "KHSAA Form GE26- Financial Aid Report", 5/2011;~~
- 5 ~~(r) [(w)] "KHSAA Form GE35- Waiver - 20 Day Notice", 5/2011;~~
- 6 ~~(s) [(x)] "KHSAA Form GE36- Add. Info for Appeal", 5/2011;~~
- 7 ~~(t) [(y) "KHSAA Form GE39- Report of Need Based Financial Aid Awarded", 5/2011;]~~
- 8 ~~(u) [(z)] "KHSAA Form GE40- Request for a Statutory Waiver of Bylaw 27", 2/2012;~~
- 9 ~~(v) [(aa)] "KHSAA Form GE52- District Tournament Financial Report", 5/2011;~~
- 10 ~~(w) [(bb)] "KHSAA Form GE53- Region Tournament Financial Report", 3/2012;~~
- 11 ~~(x) [(cc)] "KHSAA Form GE69- Waiver – 15 Day Exceptions", 5/2011;~~
- 12 ~~(y) [(dd)] "KHSAA Form SO103- Soccer Section/SubSection Financial Report", 5/2011;~~
- 13 ~~(z) [(ee) "KHSAA Form T1- Title IX Accom. Of Interests & Abilities", 5/2011;~~
- 14 ~~(ff) "KHSAA Form T2- Title IX Accom. Of Interests & Abilities", 5/2011;~~
- 15 ~~(gg) "KHSAA Form T3- Title IX Accom. Of Interests & Abilities", 5/2011;~~
- 16 ~~(hh) "KHSAA Form T35- Title IX Actual Expenditures Comparison 1 + Booster Club", 5/2011;~~
- 17 ~~(ii) "KHSAA Form T36- Title IX Actual Expenditures Comparison 2 + Booster Club", 5/2011;]~~
- 18 ~~(jj) "KHSAA Form T4- Title IX Accom. Of Interests & Abilities", 5/2011;~~
- 19 ~~(kk) "KHSAA Form T41- Title IX Athletics Audit Checklist", 5/2011;~~
- 20 ~~(ll) "KHSAA Form T50- [Title IX] Title IX Re-Visit ", 5/2011;~~
- 21 ~~(mm) "KHSAA Form T60- Title IX Corrective Action", 5/2011;~~
- 22 ~~(nn) "KHSAA Form T61- Title IX Interscholastic Athletics Student Survey", 5/2011;~~
- 23 ~~(oo) "KHSAA Form T63- Title IX Interscholastic Athletics Survey", 5/2011;~~

- 1 ~~(pp)~~ “KHSAA Form T70 Title IX Participation Opportunities”, 5/2011;
- 2 ~~(qq)~~ “KHSAA Form T71 Title IX Benefits Summary 1”, 5/2011;
- 3 ~~(rr)~~ “KHSAA Form T72 Title IX Benefits Summary 2”, 5/2011;
- 4 ~~(ss)~~ “KHSAA Form T73 Title IX Re-Visit Publicity Support Group”, 5/2011;
- 5 ~~(tt)~~ “KHSAA Form T74 Title IX Re-Visit Corrective Action Summary Chart”, 5/2011;
- 6 ~~(uu)~~ “KHSAA Form WR101- Wrestling Permission Form”, 12/2009;
- 7 (aa) [~~(vv)~~] “KHSAA Form WR111- Wrestling Skin Condition & Unconscious”, 5/2011; and
- 8 (bb) [~~(ww)~~] “KHSAA Form WR126- Wrestling Weight Certif. Program Assessor”, 3/2012.
- 9 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
- 10 the Office of Legal and Legislative Services, Department of Education, First Floor, Capital Plaza
- 11 Tower, 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 Holiday, Ph.D.
Commissioner of Education

(Date)

David Karem, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on July 23, 2013, at 10:00 a.m. in the State Board Room, 1st Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until July 31, 2013. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Kevin C. Brown, Associate Commissioner and General Counsel, Office of Guiding Support Services, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 702 KAR 7:065

Contact Person: Kevin Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 156.070 requires the Kentucky Board of Education (KBE) to manage and control the common schools, including interscholastic athletics in the schools, and authorizes the KBE to designate an agency to manage athletics. This regulation designates the Kentucky High School Athletic Association (KHSAA) as the agent to manage high school and middle school interscholastic athletics, and incorporates by reference the bylaws, procedures and rules governing interscholastic sports.

(b) The necessity of this administrative regulation: This regulation is necessary to designate the agency to provide the day-to-day management activities of interscholastic athletics in Kentucky; to set forth the financial, planning and review processes governing the agent; and to incorporate by reference the bylaws, procedures and rules of the agent.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation designates the agency to manage interscholastic athletics, as authorized by the authorizing statute, and outlines the conditions under which this authority is granted.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It designates the KHSAA as the agent to manage interscholastic athletics in the schools and districts, and publishes changes in bylaws, procedures and rules for affected schools and 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: These amendments make changes to the documents incorporated by reference, in the KHSAA Constitution and in KHSAA Bylaws 5, 7, 9, 11, 14, 18, 21, 22, 23, 24, 25, 28, 29, 30, and 31 as adopted by the KHSAA Delegate Assembly. The KHSAA is also newly designated as the agent to manage interscholastic athletics at the middle school level.

(b) The necessity of the amendment to this administrative regulation: Pursuant to the KHSAA Constitution, which is incorporated by reference in this regulation, the members are required to have an annual meeting to discuss and recommend any needed changes to the Constitution and Bylaws. While they are not required to make changes to the Constitution and Bylaws, changes must be made through this process. This amendment incorporates changes approved at the annual meeting of the Delegate Assembly. This amendment also is necessary to designate the KHSAA as the agent to manage interscholastic athletics at the middle school level.

(c) How the amendment conforms to the content of the authorizing statutes: The statute authorizes the KBE to designate an agency to manage interscholastic athletics in the common schools. The regulation designates the KHSAA as that agent, and incorporates by reference the KHSAA Handbook, which consists of the KHSAA Constitution, Bylaws, and Due Process to provide rules and guidance to the member schools and districts governing sporting events. The amendments in the Bylaws are made annually, according to the process outlined in the Constitution, and reflect input member schools and districts on changes that need to be made to provide a more sound structure of governance.

(d) How the amendment will assist in the effective administration of the statutes: See (c) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 174 School Districts

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: There will be little impact because of the nature of the changes to the regulation. There will be some additional requirements placed on schools and coaching personnel, however the training required to meet these new requirements will be provided at no costs to the schools or the coaching personnel.

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

(a) Initially: Minimal

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KHSAA is funded through membership fees and dues, as well as from gate receipts from sporting events.

(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: None

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used) 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 7:065

Contact Person: Kevin Brown

Phone number: 502-564-4474

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? School Districts.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.070 and 702 KAR 7:065.

(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 is no additional expense to the school districts as a result of this administrative regulation.

(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? The costs associated to the KHSAA in administrating this program for the first year are minimal.

(d) How much will it cost to administer this program for subsequent years? The costs associated to the KHSAA in administrating this program in subsequent first years are minimal.

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:

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE
702 KAR 7:065
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
KENTUCKY BOARD OF EDUCATION
DEPARTMENT OF EDUCATION
JUNE 2013

REVISIONS:

KHSAA Bylaws, 13 pages:

All substantive changes made to the Bylaws were all proposals that were considered and approved by the member schools. They include:

Proposal 2012-1, Bylaw 5 (Minimum Academic Requirement), a revision to modernize the language of the bylaw so that a student's official transcript shall be the basis of determining a student's academic standing. The revisions also ensure that any reinstatement allowed by the bylaw takes effect based on the schools original calendar submitted to the Kentucky Department of Education in the normal course of business.

Proposal 2012-2, Bylaw 7 (Transfer Rule - Non-Domestic Student), a revision that restricts the eligibility of non-domestic students who transfer for athletic reasons or to avoid ineligibility at the former school. The revisions also clarify that in the event a non-domestic transfer student remains ineligible for one year, as required by the bylaw, that student would then become eligible for the remainder of his or her high school enrollment through graduation, assuming compliance with all other bylaws.

Proposal 2012-3, Bylaw 11 (Practice of Sportsmanship), a revision that prevents a school from scheduling additional games for the purpose of manipulating the mandatory suspension period as the result of a game disqualification.

Proposal 2012-4, Bylaws 9 (Other Eligibility Requirements) and 14 (Certification of Eligibility), a revision that clarifies the penalties for a player playing under an assumed name. The revision also modernizes the way in which schools certify the eligibility of its students and submit an annual participation list for all participants.

Proposal 2012-5, Bylaw 18 (Countersigning Contracts), 21 (Rules Governing Contests), 22 (Sport Specific Regulations), 23 (Sanctions), 24 (Forfeits), and 28 (Distribution of Tournament Profits), and KHSAA Constitution, Article VIII, a revision that relocates provisions of the bylaws and the KHSAA Constitution related to game contracts to a new bylaw that clarifies the obligations of member schools when out of state or playing against out of state schools. The revisions also require the adoption of competition rules for all sport activities as well as clarifies the rules of the sports of golf and tennis. The revisions further eliminate language requiring the use of a molded ball in the sport of basketball and removes language from Bylaw 22 requiring a playoff in girls' basketball as these requirements are elsewhere in the bylaws. Finally, these revisions remove

language related to how profits of non post-season tournaments must be divided among the schools or an outside organization.

Proposal 2012-6, Bylaw 25 (Limitation of Seasons), a revision that restricts the number of competitors (by sport) allowed to participate in a coach involved activity during the school year, but outside the defined season of the specific sport.

Proposal 2012-7, Bylaw 25 (Limitations of Seasons), a revision that implements defined limitations in the new sport-activities of Competitive Cheerleading, Bass Fishing, Bowling, and Archery.

Proposal 2012-9, Bylaw 29 (Officials Division), 30 (Coaches Not to Officiate), and 31(Use of Licensed Officials), a revision that consolidates three bylaws with similar subject matter into one bylaw.

As a result of several revisions that combined or eliminated various bylaws, the bylaws were renumbered and rearranged in an effort to organize the bylaws for easier use. Further, several non-substantive changes were made to correct spelling, format, or grammatical errors.

KHSAA Constitution, 4 pages:

This material was revised in concert with Proposal 2012-5. The changes remove language from Article VIII that relate to member schools that compete with out of state schools or competition that takes place outside of the state. The revision also removes language relating to game contracts between member schools. These provisions were essentially removed from the Constitution and placed with the Bylaws as a result of the member school vote.

KHSAA Due Process Procedure, 3 pages:

This material was revised to account for and recognize the reorganization and formatting changes in the KHSAA Bylaws. Non-substantive changes were also made to correct format and grammatical errors.

KHSAA Form GE1- Membership Renewal, 2 pages:

This form was revised to remove provisions relating to a former licensing agreement that is no longer administered through the KHSAA. Further revisions recognize the changes to the KHSAA Bylaws. Finally, other non-substantive format and grammatical revisions were also made.

KHSAA Form GE2- New Membership Application, 3 pages:

This form was revised to remove provisions relating to a former licensing agreement that is no longer administered through the KHSAA. Further revisions recognize the changes to the KHSAA Bylaws. Finally, other non-substantive format and grammatical revisions were also made.

KHSAA Form GE4- Physician & Parental Permission, 4 pages:

This form was revised to reorganize it to ensure it more useful to the member schools, student athletes, and their physicians. The revision also accounts for the changes in the Bylaws. Other non-substantive format and grammatical revisions were also made.

KHSAA Form GE6- Transfer Form- Citizens of the U.S. or U.S. Territories, 7 pages:

This form was revised to streamline and simplify the process of requesting a ruling under according to the subject matter bylaw. Additionally, other non-substantive format and grammatical revisions were also made.

KHSAA Form GE7- Foreign Exchange Student Eligibility, 3 pages:

This form was revised to streamline and simplify the process of requesting a ruling under according to the subject matter bylaw. The revision also takes into account the changes to the subject matter bylaw. Finally, other non-substantive format and grammatical revisions were also made.

ADDITIONS:

KHSAA Board of Control and Officials Division Policies, 38 pages:

This Material Incorporated by Reference takes the former "KHSAA Board of Control Policies" and "KHSAA Officials Division Guidebook" (deleted below) and combines these materials. This allows for a new more streamlined and more organized presentation of these policies. This material also formalizes the composition and structure of Regional Policy Boards. Finally, this material also makes several grammatical and format changes on the former material and accounts for the bylaw changes.

DELETIONS:

The following Materials Incorporated by Reference are to be deleted and combined into the new materials titled "KHSAA Board of Control and Officials Division Policies" as detailed above in the ADDITIONS section:

KHSAA Board of Control Policies

KHSAA Officials Division Guidebook

The following Materials Incorporated by Reference (forms) are to be deleted from the material incorporated by reference because they are obsolete and no longer used:

KHSAA Form FB103 Football Spring Football Practice

KHSAA Form FB109 Football Scrimmage Report

KHSAA Form FB122 Football Contact Practice Log

KHSAA Form GE18 Survey for sports Offerings

KHSAA Form GE39 Report of Need Based Financial Aid Awarded

KHSAA Form T1- Title IX Accom. Of Interests & Abilities

KHSAA Form T2- Title IX Accom. Of Interests & Abilities

KHSAA Form T3- Title IX Accom. Of Interests & Abilities

KHSAA Form T4 Title IX Accom. Of Interest & Abilities

KHSAA Form T35- Title IX Actual Expenditures Comparison 1 + Booster Club

KHSAA Form T36- Title IX Actual Expenditures Comparison 2 + Booster Club

KHSAA Form T41- Title IX Athletics Audit Checklist

KHSAA Form T50- Title IX Title IX Re-Visit

KHSAA Form T60- Title IX Corrective Action

KHSAA Form T61- Title IX Interscholastic Athletics Student Survey

KHSAA Form T63- Title IX Interscholastic Athletics Survey

KHSAA Form T70- Title IX Participation Opportunities

KHSAA Form T71- Title IX Benefits - Summary 1

KHSAA Form T72- Title IX Benefits - Summary 2

KHSAA Form T73- Title IX Re-Visit - Publicity Support Group

KHSAA Form T74- Title IX Re-Visit – Corrective Action Summary Chart