

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Review Item:

702 KAR 1:170, School District Data Security and Breach Procedures (First Reading)

Applicable Statute or Regulation:

KRS 61.931

KRS 61.932

KRS 61.933

200 KAR 1:015, Data Breach Notification Forms

History/Background:

Existing Policy. On January 1, 2015, a new state law, the Personal Information Security and Breach Investigations Act (KRS 61.931- 61.934) went into effect. This legislation, more commonly known as “House Bill 5,” from the 2014 Regular Session of the Kentucky General Assembly focuses on notification of victims of data theft or misuse, and protection of “personal information” as defined by these statutes. It applies to every state agency, including Kentucky Department of Education (KDE), every public school district, and every vendor holding a contract with a state agency or school district.

This legislation authorizes the Kentucky Board of Education to promulgate administrative regulations for the purpose of providing guidance to public school districts on reasonable security and breach investigation procedures and practices.

The proposed administrative regulation will require KDE and each district to, at least annually, review best practices for prevention of “personal information” data breaches, preparation of notification, and notification to victims of a data breach. Each district will need to weigh its own risk against the costs, which can be significant, of implementing each available best practice. There may be significant differences in the approach each district believes is best and affordable. The proposed regulation will require districts to communicate to their boards on an annual basis, which best practices they are adopting or not, based upon their own evaluation of risk and the available budget.

The KDE has developed the [Data Security and Breach Notification Best Practice Guide](#) (attached), which provides recommendations to districts and to KDE generally on data protection, loss prevention and notification as well as summarizing requirements on what to do in the event of a data breach. This document, or a version of it specific to the “personal information” protections and requirements in HB 5, will be incorporated by reference into the regulation.

Groups Consulted and Brief Summary of Responses:

- District education technology leadership (Chief Information Officers, District Technology Coordinators, Chief Education Technology Officer)
- District superintendents
- KDE Executive Leadership
- KDE Data Governance Committee
- KDE Core Process Team

The approach and wording for 702 KAR 1:170 was discussed and reviewed extensively through both on-site/in-person and web conferencing opportunities. All groups/individuals are in support of the proposed regulation for School District Data Security and Breach Procedures. LSAC also will review the regulation prior to the June KBE meeting.

Impact on Getting to Proficiency:

Approval of this regulation will ensure there is an appropriate and consistent emphasis on “personal information” data security at the school and district levels as well as at the Kentucky Department of Education. The associated documentation will provide best practices and guidelines for the reasonable security and breach investigation procedures and practices to be utilized. This puts into effect safeguards to secure the data and provide a safe learning environment where student achievement can then become the primary focus.

Contact Person:

David Couch, Associate Commissioner
Office of Knowledge, Information and Data Services (KIDS)
(502) 564-2020, ext. 2229
David.Couch@education.ky.gov



Commissioner of Education

Date:

June 2015