

Education and Workforce Development Cabinet

Kentucky Board of Education

Department of Education

(New Administrative Regulation)

702 KAR 1:170. School district data security and breach procedures

RELATES TO: KRS 61.931, 61.932, 61.933

STATUTORY AUTHORITY: KRS 156.070, 61.932(1)(b)

NECESSITY, FUNCTION AND CONFORMITY: KRS 156.070 authorizes the Kentucky Board

of Education (KBE) to promulgate administrative regulations necessary for the efficient

management, control, and operation of the schools and programs under its jurisdiction. KRS

61.932(1)(b) specifically authorizes the KBE to promulgated administrative regulations with

requirements and standards for the reasonable security and breach investigation procedures and

practices established and implemented by public school districts. This administrative regulation

establishes the requirements and standards for school district reasonable security and breach

investigation procedures and practices.

Section 1. Definitions. (1) “Personal information” is defined in KRS 61.931(6).

(2) “Reasonable security and breach investigation procedures and practices” is defined in KRS

61.931(8).

Section 2. Best Practice Guide for School District Personal Information Reasonable Security. (1)

The Department shall at least annually provide school districts best practice guidance for personal

information reasonable security. The current Department guidance is provided in the Data Security

and Breach Notification Best Practice Guide, which is incorporated by reference into this administrative regulation. School districts are not required to adopt the security practices included in this guidance.

Section 3. Annual Public School District Acknowledgement of Best Practices. Each public school district shall review and consider, in light of the needs of reasonable security, the most recent best practice guidance, including the Data Security and Breach Notification Best Practice Guide, for personal information reasonable security. Each public school district shall acknowledge to its own local board during a public board meeting prior to August 31 of each year, that the district has reviewed this guidance and implemented the best practices that meet the needs of personal information reasonable security in that district.

Section 4. Annual Department Acknowledgement of Best Practices. The Department shall review and consider, in light of the needs of reasonable security, the most recent best practice guidance for personal information reasonable security. The Department shall acknowledge to the KBE, by August 31 of each year, that the Department has reviewed this guidance and implemented the best practices that meet the needs of personal information reasonable security for the Department.

Section 5. Data Breach Notification to the Department. (1) Any public school district that determines or is notified of a security breach relating to personal information collected, maintained, or stored by the school district or by a nonaffiliated third party on behalf of the school district shall provide the notification of the security breach to the Department required by KRS 61.933 pursuant to the procedure included in the Data Security and Breach Notification Best Practice Guide.

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

- 1 (a) “Data Security and Breach Notification Best Practice Guide”, September 2015.
- 2 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the
- 3 Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort,
- 4 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

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on September 21, at 10 a.m. in the State Board Room, First 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 September 30. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, 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: 702 KAR 1:170

Agency Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards and requirements for local school district reasonable security and breach investigation procedures and practices.

(b) The necessity of this administrative regulation: KRS 61.932(1)(b) requires the agency to promulgate administrative regulations establishing the standards and requirements for local school district reasonable security and breach investigation procedures and practices.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation establishes the requirements mandated by KRS 61.932(1)(b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the reasonable security and breach investigation procedures and practices required specifically for local school districts by KRS 61.931, 61.932, and 61.933.

(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: Inapplicable

(b) The necessity of the amendment to this administrative regulation: Inapplicable

(c) How the amendment conforms to the content of the authorizing statute: Inapplicable

(d) How the amendment will assist in the effective administration of the statutes: Inapplicable

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Kentucky public school districts

(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: This administrative regulation establishes the reasonable security and breach investigation procedures and practices required specifically for local school districts by KRS 61.931, 61.932, and 61.933.

(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: A school district shall have to comply

with the requirements in this administrative regulation for establishing the reasonable security and breach investigation procedures and practices.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no mandated costs with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): More consistency in the reasonable security and breach investigation procedures and practices utilized by school districts.

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

(a) Initially: Minimal

(b) On a continuing basis: Minimal

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General 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) No

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 702 KAR 1:170

Contact Person: Kevin C. Brown

Phone number: 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? All Kentucky public school districts

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 61.932(1)(b), 156.070.

(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.

(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? No cost

(d) How much will it cost to administer this program for subsequent years? No cost

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 Page - Incorporation by Reference

702 KAR 1:170. School district data security and breach procedures

The following documents are incorporated by reference:

"Data Security and Breach Notification Best Practice Guide", September 2015. The document incorporated by reference consists of (12) pages. This document is used to provide guidance to school districts regarding best practices and procedures for data security and data breach incidents.