

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (New Administrative Regulation)

5 701 KAR 5:150. Nontraditional Instruction Program.

6 RELATES TO: KRS 158.070

7 STATUTORY AUTHORITY: KRS 156.029, KRS 156.070, KRS 156.160, KRS 158.070

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.029(7) states that the primary
9 function of the Kentucky Board of Education (KBE) is to adopt policies and administrative
10 regulations by which the Kentucky Department of Education (department) shall be governed in
11 planning and operating programs within its jurisdiction. KRS 156.070(5) requires the KBE, upon
12 the recommendation of the Commissioner of Education (Commissioner), to establish policy or
13 act on all programs, services, and other matters which are within the administrative responsibility
14 of the department. KRS 158.070 requires the KBE to promulgate an administrative regulation to
15 prescribe the conditions and procedures for local education agencies (districts) to be approved
16 for the nontraditional instruction program. This administrative regulation establishes the
17 requirements and approval process for districts to be approved for the nontraditional instruction
18 program.

19 Section 1. Definitions. (1) “Certified employee” means an employee of a local school district
20 who is required to have a certification for his position pursuant to KRS 161.020.

21 (2) “Instructional delivery method” means the delivery system and instructional techniques to be
22 used in meeting the learning needs of students.

23 (3) “Minimum school term” or “school term” is defined in KRS 158.070(1)(b).

1 (4) “Professional learning plan” means the strategy implemented to ensure certified and
2 classified staff in a local school district acquire, enhance, and refine the knowledge, skills,
3 practices, and dispositions necessary to create and support high levels of learning for all students.

4 (5) “Nontraditional instruction day” means a day during the school term that a local school
5 district is closed for health or safety reasons that is approved by the Commissioner, pursuant to
6 KRS 158.070(9), to be the equivalent to a student attendance day.

7 (6) “Nontraditional instruction plan” means the strategy approved by the Commissioner and
8 implemented by a local school district to ensure instruction on nontraditional instruction days is a
9 continuation of learning that is occurring on regular student attendance days as required by KRS
10 158.070(9).

11 (7) “Student attendance day” is defined in KRS 158.070(1)(e).

12 Section 2. Initial Application Process. (1) Using the Nontraditional Instruction Program Initial
13 Application, a district submitting a nontraditional instruction plan to be approved by the
14 Commissioner shall include:

15 (a) A description of the instructional delivery methods, including the use of technology, to be
16 used on nontraditional instruction days;

17 (b) A description of how the district will provide access to online resources, if used, and
18 equitable instructional materials for students who do not have access to the internet and for
19 students needing to access information differently;

20 (c) A description of how the district shall ensure a continuation of learning from regular student
21 attendance days will occur on nontraditional instruction days;

22 (d) A description of how the district will ensure implementation of Individual Education
23 Programs for students with disabilities, including how an Admissions and Release Committee

1 will be involved in planning for and making decisions related to the participation and needs of
2 students with disabilities, on nontraditional instruction days;

3 (e) A description of how the district will ensure implementation of other student-specific
4 educational plans, including Program Service Plans for English Learners, 504 Plans, and Gifted
5 Student Service Plans for students identified as gifted and talented, on nontraditional instruction
6 days;

7 (f) A description of how student participation will be measured and how evidence of student
8 learning will be gathered on nontraditional instruction days;

9 (g) A description of how each job category within the district will fulfill contractual obligations
10 on nontraditional instruction days and how employee participation will be verified on
11 nontraditional instruction days;

12 (h) An explanation of the professional learning plan the district will implement to ensure
13 certified employees have the knowledge and capacity to provide instruction on nontraditional
14 instruction days;

15 (i) A description of education agencies that are external to the district but have students of the
16 district in attendance on a part-time or full-time basis and the considerations on nontraditional
17 instruction days that will need to be agreed upon between the district and those external
18 education agencies;

19 (j) A description of stakeholder involvement in developing and implementing nontraditional
20 instruction days;

21 (k) A description of how the district will relay information about nontraditional instruction days
22 to students and families; and

- 1 (1) Other evidence deemed necessary by the department to effectively review and approve or
2 deny a district's nontraditional instruction plan.
- 3 (2) The department shall provide technical assistance, upon request, to districts prior to
4 submission of the Nontraditional Instruction Program Initial Application.
- 5 (3) A district shall submit an application at least one hundred and twenty (120) days prior to the
6 beginning of a school term to have the application considered for implementation at the
7 beginning of the upcoming school term.
- 8 (4) A committee designated by the Commissioner shall review and recommend the
9 Commissioner approve or deny a completed Nontraditional Instruction Program Initial
10 Application within forty-five (45) days from receipt of the completed application.
- 11 (5) Within thirty (30) days from receipt of the recommendation from the committee designated
12 pursuant to subsection (4) of this section, the Commissioner shall approve or deny a completed
13 Nontraditional Instruction Program Initial Application. The Commissioner may initially approve
14 a district to participate in the nontraditional instruction program for up to two (2) years.
- 15 (6)(a) A district approved to participate in the nontraditional instruction program may amend its
16 Nontraditional Instruction Program Initial Application as needed at any time by submitting a
17 written amendment request to the department.
- 18 (b) The amendment request shall contain a description of the amendment, proposed timeline for
19 implementation, and justification for the request.
- 20 (c) A committee designated pursuant to subsection (4) of this section shall review the amended
21 Nontraditional Instruction Program Initial Application and recommend the Commissioner
22 approve or deny such within forty-five (45) days of the amendment submission.

1 (d) Within thirty (30) days from receipt of the recommendation from the committee designated
2 pursuant to subsection (4) of this section, the Commissioner shall approve or deny an amended
3 Nontraditional Instruction Program Initial Application. An amended Nontraditional Instruction
4 Program Initial Application approved by the Commissioner shall be in effect for the remainder of
5 the initial period of approval pursuant to subsection (5) of this section.

6 Section 3. Renewal Application Process. (1) At the end of the term of approval, a district that has
7 used at least one (1) nontraditional instruction day during the term of approval shall be eligible to
8 complete the renewal application process. A district not eligible to complete the renewal
9 application process shall be eligible to apply using the Nontraditional Instruction Program Initial
10 Application and in compliance with Section 2 of this administrative regulation.

11 (2) Using the Nontraditional Instruction Program Renewal Application, a returning district
12 submitting a nontraditional instruction plan to be approved for renewal by the Commissioner
13 shall include:

- 14 (a) A description of the nontraditional instruction program that includes:
- 15 1. Revisions to the district's nontraditional instruction program that are being proposed for the
16 program to grow in rigor and efficacy;
 - 17 2. Program adjustments that are being proposed to improve the program for stakeholders; and
 - 18 3. Any changes being proposed related to how the district handles food service staff and costs on
19 nontraditional instruction days.

20 (b) Other evidence deemed necessary by the department to effectively review and approve or
21 deny a district's nontraditional instruction plan.

22 (3) The department shall provide technical assistance, upon request, to districts prior to
23 submission of the Nontraditional Instruction Program Renewal Application.

1 (4) A district shall submit an application at least one hundred and twenty (120) days prior to the
2 beginning of a school term to have the application considered for implementation at the
3 beginning of the upcoming school term.

4 (5) A committee designated by the Commissioner shall review and recommend the
5 Commissioner approve or deny a completed Nontraditional Instruction Program Renewal
6 Application within forty-five (45) days from receipt of the completed application.

7 (6) Within thirty (30) days from receipt of the recommendation from the committee designated
8 pursuant to subsection (5) of this section, the Commissioner shall approve or deny a completed
9 Nontraditional Instruction Program Renewal Application. At renewal, the Commissioner may
10 approve a district to participate in the nontraditional instruction program for up to four (4) years.

11 (7)(a) A district approved to participate in the nontraditional instruction program may amend its
12 Nontraditional Instruction Program Renewal Application as needed at any time by submitting a
13 written amendment request to the department.

14 (b) The amendment request shall contain a description of the amendment, proposed timeline for
15 implementation, and justification for the request.

16 (c) A committee designated pursuant to subsection (5) of this section shall review the amended
17 Nontraditional Instruction Program Renewal Application and recommend the Commissioner
18 approve or deny such within forty-five (45) days of the amendment submission.

19 (d) Within thirty (30) days from receipt of the recommendation from the committee designated
20 pursuant to subsection (4) of this section, the Commissioner shall approve or deny an amended
21 Nontraditional Instruction Program Renewal Application. An amended Nontraditional
22 Instruction Program Renewal Application approved by the Commissioner shall be in effect for
23 the remainder of the renewal period of approval pursuant to subsection (6) of this section.

1 Section 4. Use of Nontraditional Instruction Days. (1) Once the Commissioner has approved a
2 district to participate in the nontraditional instruction program, the district may apply for and the
3 Commissioner may approve the use of nontraditional instruction days on days when the district
4 is closed for health or safety reasons.

5 (2) Pursuant to KRS 158.070, the district may apply for and the Commissioner may approve up
6 to the equivalent of ten (10) student attendance days per school year in nontraditional instruction
7 days for the district.

8 (3) The district shall seek approval from the Commissioner to use one or more nontraditional
9 instruction days by submitting a request and appropriate supplemental documentation, as
10 required by the department, to the department within thirty (30) days following the day(s) the
11 district was closed for health or safety reasons.

12 (4) The Commissioner shall approve or deny a district's use of one or more nontraditional
13 instruction days within thirty (30) days from receipt of the district's request and appropriate
14 supplemental documentation, as required by the department. A request to use one or more
15 nontraditional instruction days shall be denied by the Commissioner if the district fails to supply
16 clear evidence demonstrating a continuation of learning from regular student attendance days
17 occurs on nontraditional instruction days. Clear evidence may include:

- 18 1. Examples of student work;
- 19 2. Lesson plans; or
- 20 3. Curriculum maps.

21 Section 5. Monitoring and Revocation of Nontraditional Instruction Programs. (1) At the
22 conclusion of the first school term of implementation of the approved Nontraditional Instruction
23 Program Application and at the end of each school term thereafter for the entirety of the approval

1 status, a district approved by the Commissioner to participate in the nontraditional instruction
2 program may receive an annual site visit from a review team selected and trained by the
3 department. The purpose of the site visit is to monitor the district's progress in implementing the
4 approved Nontraditional Instruction Program Application.

5 (2) If a site visit is conducted by the department, the site visit shall:

6 (a) Be made following adequate advanced notice to the district; and

7 (b) Include the gathering of information through the examination of records related to the
8 district's implementation of the approved Nontraditional Instruction Program Application,
9 including renewals and amendments if applicable, and through interviews with district
10 leadership, staff, and students as well as other stakeholders.

11 (3) In addition to any site visit that may be conducted pursuant to subsections (1) and (2) of this
12 section of this administrative regulation, a district approved by the Commissioner to participate
13 in the nontraditional instruction program shall, upon request, make the following available for
14 inspection by the department:

15 (a) Documentation of the instructional delivery methods used on nontraditional instruction days;

16 (b) Evidence demonstrating the district provides access on nontraditional instruction days to
17 online resources, if used, and equitable instructional materials for students who do not have
18 access to the internet and for students needing to access information differently;

19 (c) Clear evidence demonstrating a continuation of learning from regular student attendance days
20 occurs on nontraditional instruction days. Clear evidence may include:

21 1. Examples of student work;

22 2. Lesson plans; or

23 3. Curriculum maps.

- 1 (d) Evidence demonstrating the district ensures implementation of Individual Education
2 Programs for students with disabilities, including the involvement Admissions and Release
3 Committee in planning for and making decisions related to the participation and needs of
4 students with disabilities, on nontraditional instruction days;
- 5 (e) Evidence demonstrating the district ensures implementation of other student-specific
6 educational plans, including Program Service Plans for English Learners and Gifted Student
7 Service Plans for students identified as gifted and talented, on nontraditional instruction days;
- 8 (f) Data demonstrating student participation and student learning on nontraditional instruction
9 days;
- 10 (g) Evidence demonstrating how each job category within the district fulfills contractual
11 obligations on nontraditional instruction days and data, including teacher work logs,
12 demonstrating employee participation on nontraditional instruction days;
- 13 (h) The professional learning plan implemented by the district to ensure certified staff have the
14 knowledge and capacity to provide instruction on nontraditional instruction days and evidence
15 demonstrating implementation;
- 16 (i) Where appropriate, agreements about nontraditional instruction days between the district and
17 educational agencies that are external to the district but have students of the district in attendance
18 on a part-time or full-time basis;
- 19 (j) Evidence demonstrating stakeholder involvement in developing and implementing
20 nontraditional instruction days;
- 21 (k) Methods used by the district to relay information about nontraditional instruction days to
22 students and families; and

1 (1) Other evidence deemed necessary by the department to effectively monitor the
2 implementation of the approved Nontraditional Instruction Program Application, including
3 renewals and amendments if applicable.

4 (4) At the conclusion of each term of implementation of the approved Nontraditional Instruction
5 Program Application for the entirety of the approval status, the department may revoke approval
6 of a district's nontraditional instruction program as a result of evidence collected pursuant to this
7 section of this administrative regulation.

8 (5) Prior to having approval of its nontraditional instruction program revoked, a district shall
9 receive a site visit from a review team selected and trained by the department. The purpose of the
10 visit shall be to monitor the district's progress in implementing the nontraditional instruction
11 program, collect qualitative data on the effectiveness of the nontraditional instruction program,
12 and verify the district's compliance with all applicable laws. A site visit shall be made following
13 adequate advance notice to the district and may include the gathering of information through:

- 14 (a) Direct observation;
- 15 (b) Interviews with staff and students; or
- 16 (c) Examination of records.

17 (6) Any district that has had approval of its nontraditional instruction program revoked by the
18 department shall wait a minimum of one (1) calendar year before submitting a new
19 Nontraditional Instruction Program Application.

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

- 21 (a) "Nontraditional Instruction Plan Initial Application," October 2018; and
- 22 (b) "Nontraditional Instruction Plan Renewal Application," October 2018.

1 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
2 the Kentucky Department of Education, Office of Continuous Improvement and Support, 300
3 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30
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