KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: 701 KAR 5:150. Nontraditional Instruction Program (Second Reading)
Date: October 2018
Action Requested: ☐Review   ☐Action/Consent   ☒Action/Discussion

SUMMARY OF ISSUE BEFORE THE BOARD:

To take action on 701 KAR 5:150, which establishes the requirements and process for districts to be approved for the nontraditional instruction program.

COMMISSIONER'S RECOMMENDATION:

The Interim Commissioner recommends approval of 701 KAR 5:150 in order to fulfill the Kentucky Board of Education's requirements under KRS 158.070 as amended by Senate Bill 73 (2018).

APPLICABLE STATUTE OR REGULATION:

KRS 156.029, KRS 156.070, KRS 156.160, and KRS 158.070.

BACKGROUND:

Existing Policy:

The nontraditional instruction program was first created by the Kentucky General Assembly in 2011 to encourage the continuation of academic instruction on days when school would otherwise be cancelled due to health or safety reasons. Amendments expanding participation eligibility were made by the legislature in 2013 and 2014, and 83 districts are participating in the nontraditional instruction program during the 2018-2019 school year.

Currently, participating school districts create plans to deliver instruction to every student in the district and to provide for student and teacher interaction on nontraditional instruction days with the ultimate goal of reducing potential learning loss. These plans are submitted to the Kentucky Department of Education (KDE) through an application process and, if approved, the Commissioner of Education is authorized under KRS 158.070 to grant up to ten nontraditional instruction days per year for the district to count towards student attendance days.

Summary of Issue:

During the 2018 Regular Session of the Kentucky General Assembly, the legislature adopted Senate Bill 73, which became effective on July 14, 2018, revising KRS 158.070 to require the Kentucky Board of Education (KBE) to promulgate administrative regulations "to be effective with the 2019-2020 school year to prescribe the conditions and procedures for districts to be approved for the nontraditional instruction program."

Specifically, the General Assembly has statutorily tasked the KBE with regulating how districts apply to participate in the nontraditional instruction program; the timeline for approval and length of approval for program participation as well as the renewal application process; and, the reporting and oversight responsibilities of KDE, including what documentation approved districts must submit to KDE to document "clear evidence of learning continuation" on nontraditional instruction days. Accordingly, this administrative regulation, 701 KAR 5:150, incorporates existing components of the nontraditional instruction program not previously codified in administrative regulation and provides additional requirements and clarification pursuant to KRS 158.070.

Budget Impact:

There is no anticipated budget impact related to the adoption of 701 KAR 5:150.

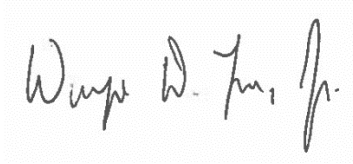**GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:**

Pursuant to KRS 156.007(2), the Local Superintendents Advisory Council (LSAC) exists to "advise the chief state school officer and the Kentucky Board of Education concerning the development of administrative regulations," and the Commissioner of Education is required to submit proposed regulations to LSAC prior to seeking KBE approval. As required by statute, LSAC reviewed this regulation at its meeting on July 24, 2018. At that time, no questions or concerns regarding the contents of the regulation were shared; however, LSAC members offered positive feedback about the nontraditional instruction program.

LSAC reviewed this regulation for a second time at its meeting on September 25, 2018.

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Interim Commissioner of Education

Category: ☒ **District Innovation** ☐ **Strengthening Educators** ☒ **Family/Community Involvement** ☐ **Student/Family Supports** ☐ **Student Interventions** ☒ **Coursework Completion** ☐ **Accountability Reporting**