

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amendment)

5 702 KAR 1:160. School health services.

6 RELATES TO: KRS 156.160(1)(h), (i), (j), 156.501, 156.502, 158.035, 158.160, 158.838,

7 161.145, 214.034, 214.036, 29 C.F.R. 1910.1030

8 STATUTORY AUTHORITY: KRS 156.070, 156.160(1), 158.838

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(1) requires the Kentucky

10 Board of Education to manage and control all the common schools and all programs operated in

11 these schools. KRS 156.160(1)(h) requires the board to promulgate administrative regulations

12 governing medical inspection, physical and health education and recreation, and other

13 administrative regulations necessary or advisable for the protection of the physical welfare and

14 safety of the public school children. KRS 156.160(1)(i) and (j) require the board to promulgate

15 administrative regulations governing a required vision examination and a dental screening or

16 examination. This administrative regulation establishes criteria for preventive student health care

17 examinations at the local school district level.

18 Section 1. School Employee Medical Examinations. (1) Except as provided in subsection (2) of

19 this section, a local board of education shall require a medical examination of each certified or

20 classified employee, including each substitute teacher. The medical examination shall:

21 (a) Be conducted prior to initial employment; and

(b) Include a tuberculosis (TB) risk assessment.

1. If the individual is identified by that assessment as being at high risk for TB, the individual shall be required to undergo the administration of a tuberculin skin test (TST) or a blood test for *Mycobacterium tuberculosis* (BAMT).

2. The TB risk assessment shall be performed and reported by a physician, an advanced practice registered nurse, a physician's assistant, or a registered nurse.

(2) The medical examination requirement shall not apply to school bus drivers who are covered by 702 KAR 5:080.

(3) A local board of education may require by policy that a school employee physical examination be conducted no earlier than a ninety (90) day period prior to initial employment.

(4) A medical examination shall be reported on the form Medical Examination of School Employees, KDESHS001, or an electronic medical record that includes all of the data equivalent to that on the Medical Examination of School Employees form.

(5) A person who tests positive for TB shall be required to comply with the directives of the local board of health and the Kentucky Department for Public Health for further evaluation and treatment of the TB infection.

(6)(a) Following the required medical examination for initial employment and any subsequent examinations as may be required for positive tuberculin reactors, a school district employee other than a bus driver shall submit to the local school superintendent the completed Medical Examination of School Employees form or an electronic medical record that includes all of the data equivalent to that on the Medical Examination of School Employees form required by subsection (4) of this section.

(b) The medical examination shall be performed and signed for by a physician, physician's assistant, or an advanced practice registered nurse. Transmission of an electronic medical record to the school district via email from the health care provider's office may be accepted as the official signature.

(7) Documentation of a TST, BAMT, and chest x-ray, if performed, shall include:

(a) The date given;

(b) Type of test;

(c) Millimeters of induration;

(d) Date read and by whom; and

(e) Date x-ray taken and results as related to TB status.

(8)(a)1. A local board of education shall require all school personnel exhibiting symptoms of chronic respiratory disease to undergo a TB risk assessment and examinations as indicated.

2. The evaluation and any recommended treatment for TB infection shall be based upon the directives of the local board of health and the Kentucky Department for Public Health.

(b) An employee exposed to infectious TB shall be tested and, if necessary, treated for TB infection according to the directives of the local board of health.

(c) The school district shall require school district employees to undergo more extensive testing for TB if:

1. The number of active TB cases in the county is equal to or greater than the national average, as established by the Department for Public Health, Division of Epidemiology and Health Planning, Tuberculosis Prevention and Control Program; and

2. The local board of health, with the approval of the Kentucky Department for Public Health, requires more extensive testing for TB of school district employees.

Section 2. Preventive Student Health Care Examinations. (1)(a) A local board of education shall require a preventive health care examination for students within one (1) year prior to initial entry to school.

(b) A second examination shall be required within one (1) year prior to entry into the sixth grade.

(c) A third examination may be required by policy of the local board of education within one (1) year prior to entry into the ninth grade.

(2) An out-of-state transfer student shall be required to submit documentation of a preventive health care examination.

(3) A local board of education may extend the deadline by which to obtain a preventive student health care examination, not to exceed two (2) months.

(4) A preventive student health care examination shall be performed and signed for by a physician, an advanced practice registered nurse, a physician's assistant, or by a health care provider in the early periodic screening diagnosis and treatment programs. Transmission of an electronic medical record to the school district via email from the health care provider's office may be accepted as the official signature.

(5) A preventive student health care examination shall be reported on the Preventive Student Health Care Examination Form, KDESHS002, or an electronic medical record that includes all of the data equivalent to that on the Preventive Student Health Care Examination Form, and shall include:

(a) A medical history;

(b) An assessment of growth and development and general appearance;

(c) A physical assessment including hearing and vision screening; and

(d) Recommendations to the school regarding health problems that may require special attention in classroom or physical education activities.

(6)(a) A vision examination shall be reported on the form, Kentucky Eye Examination Form for School Entry, KDESHS004, or other electronic medical record that includes all of the data equivalent to that on the Kentucky Eye Examination Form for School Entry.

(b) A dental screening or examination shall be reported on the form, Kentucky Dental Screening/Examination Form for School Entry, KDESHS005, or other electronic medical record that includes all of the data equivalent to that on the Kentucky Dental Screening/Examination Form for School Entry.

(7) A local school district shall establish a plan for implementation and compliance required for the sixth grade preventive student health care examination.

(8) A current Immunization Certificate, EPID-230, incorporated by reference into 902 KAR 2:060, or an immunization certificate meeting the requirements of 902 KAR 2:060, Section 4, shall be on file within two (2) weeks of the child's enrollment in school.

(9)(a) A board of education shall adopt a program of continuous health supervision for all currently enrolled students.

(b) Supervision shall include scheduled screening tests for vision and hearing.

(c) Supervision shall include the adoption of policies for the implementation of seizure action plans pursuant to KRS 158.838. "Seizure action plan" shall have the same meaning as in KRS 158.832.

(10) A school shall have emergency care procedures, which shall include:

(a) First aid facilities meeting the requirements of 702 KAR 4:170, including provisions for designated areas for the child to recline;

(b) A requirement that whenever children are present during school hours, there shall be at least one (1) adult present in the school who is certified in a standard first aid course which includes CPR for infants and children;

(c) A requirement that, at all times when enrolled students, for whom documentation under KRS 158.838(2) or (7), including seizure action plans, has been provided to the school, are present during school hours or participating in school-related activities, there is a school employee who is trained to administer and can administer or assist with the self-administration of glucagon, insulin, or seizure ~~rescue~~ medications approved by the United States Food and Drug Administration or successor agency and administered pursuant to a student's seizure action plan.

A student shall be permitted to conduct the actions and possess the supplies and equipment described in KRS 158.838(7) at school-related activities regardless of whether the student is a participant or mere observer of the school-related activity;

(d) A number at which parents can be reached; and

(e) The name of a family physician.

Section 3. Cumulative Health Records. (1) A school shall initiate a cumulative health record for each student entering its school.

(a) The record shall be maintained throughout the student's attendance.

(b) The record shall be uniform and shall be on the form Student's Cumulative Health Record, KDESHS006, or the record shall be maintained electronically in the student information system.

(c) The record shall include screening tests related to growth and development, vision, hearing, and any dental screenings other than the initial dental screening recorded on the Kentucky Dental Screening/Examination Form for School Entry, KDESHS005, and findings and recommendations of a health care provider and a dentist.

(d) A follow-up by the proper health or school authorities shall be made on each abnormality noted, and the result shall be recorded.

(2) A local school district shall report all known or suspected cases of communicable disease immediately to the local health department.

Section 4. School District Health Personnel. (1) A superintendent shall designate a person to serve as school health coordinator for the district. The person designated shall meet the following minimum qualifications:

(a) A valid license to practice as a registered nurse, issued under KRS 314.041 by the Kentucky Board of Nursing, and three (3) years of registered nursing practice, as defined in KRS 314.011(6);

(b) A school psychologist certificate, issued by the Education Professional Standards Board (EPSB) pursuant to 16 KAR 2:090, and a minimum of three (3) years of related work experience in a school setting; or

(c) A school social worker certificate, issued by the EPSB pursuant to 16 KAR 2:070, and a minimum of three (3) years of work experience practicing social work in a school setting.

(2) The school health coordinator shall work in cooperation with all school personnel, the local board of education, the department, the local health department, and family resource and youth services centers, in promoting and implementing a school health services program.

Section 5. Delegation to Perform Medication Administration. A local board of education shall require proof that all unlicensed school personnel who have accepted delegation to perform medication administration in school have completed a training course provided by the department or allowed under KRS 158.838(1)(c). The department's course shall be developed in

consultation with the Kentucky Board of Nursing to ensure compliance with 201 KAR 20:400 and KRS 156.502.

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

(a) "Medical Examination of School Employees", KDESHS001, January 1, 2015;

(b) "Preventive Student Health Care Examination Form", KDESHS002, January 1, 2015;

(c) "Student's Cumulative Health Record", KDESHS006, January 2, 2015;

(d) "Kentucky Eye Examination Form for School Entry", KDESHS004, January 1, 2015; and

(e) "Kentucky Dental Screening/Examination Form For School Entry", KDESHS005, January 2, 2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of District Support, Department of Education, 300 Sower Boulevard [~~500 Mero Street~~], 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)

Wayne D. Lewis
Commissioner of Education

(Date)

Hal Heiner, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, 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 through. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Deanna L. Durrett, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 702 KAR 1:160
Contact Person: Deanna Durrett, Deanna.Durrett@education.ky.gov
Phone number: 502-564-4474

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation relates to school health services and establishes the rules and policies schools are required to create or follow by the authorizing statutes.

(b) The necessity of this administrative regulation: This regulation is required by KRS 158.838 and KRS 156.160.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes require the Kentucky Board of Education (KBE) to promulgate administrative regulations for the protection of the physical welfare and safety of public school children as well as procedures for the administration of certain medications and development of seizure action plans.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation contains procedures for: medical examinations of school employees; health, vision, and dental screenings of school students; adopting policies related to seizure action plans; administration of certain medications; required student health records; and required district health personnel.

(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: This amendment requires all school districts to adopt policies establishing seizure action plans and requires trained district staff capable of enacting the plans be present whenever students are on school grounds.

(b) The necessity of the amendment to this administrative regulation: KRS 158.838 as amended by HB 147 (2018) requires the KBE to promulgate administrative regulations establishing procedures for the implementation of seizure actions plans.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment requires school districts to adopt seizure action plans and provide trained staff to implement student plans whenever students are present on school premises.

(d) How the amendment will assist in the effective administration of the statutes: The regulation amendment will require all school districts to adopt seizure action plan policies to ensure students with seizure disorder have plans for care created by their doctors. These plans will provide school district personnel with seizure treatment information in the event the student suffers a seizure at school.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: School districts, schools, school employees, and students will be impacted.

(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:

(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: The amendment should have minimal impact on school districts. Most districts already have policies related to seizure action plans.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The costs associated with the amendment should be minimal. As stated above, most districts already have policies related to seizure action plans and have staff trained to administer medication.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment will ensure school districts have adopted policies requiring seizure action plans for all students with known seizure disorders.

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

(a) Initially: The cost will be minimal. Any costs will be related to creating policies and training staff. Most districts already have seizure action plan policies.

(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: There was no funding allocated for implementing HB 147 (2018).

(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: There are no fees associated with this regulation amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established or increased by this regulation amendment.

(9) TIERING: Is tiering applied? **Explain why tiering was or was not used.** Tiering is not applied. There are no fees associated with this regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 702 KAR 1:160
Contact Person: Deanna Durrett, Deanna.Durrett@education.ky.gov
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 are impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.160 and 158.838.

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. The impact of the regulation amendment is minimal. As previously stated, most school districts have already adopted the seizure action plans required by the 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? The regulation amendment will not generate revenue.

(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? The regulation amendment will not generate revenue

(c) How much will it cost to administer this program for the first year? The cost should be minimal. District costs are related to adopting seizure action plan policies and providing training for staff. Most districts have already adopted seizure action plan policies and train staff to deliver a variety of medications, not just for seizures.

(d) How much will it cost to administer this program for subsequent years? The cost should be minimal. The cost should be minimal. District costs are related to adopting seizure action plan policies and providing training for staff. Most districts have already adopted seizure action plan policies and train staff to deliver a variety of medications, not just for seizures.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): Unknown

Other Explanation: It is impossible to provide specific dollar estimates for this regulation. However, costs should be minimal. District costs are related to adopting seizure action plan policies and providing training for staff. Most districts have already adopted seizure action plan policies and train staff to deliver a variety of medications, not just for seizures.