EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Kentucky Board of Education

Department of Education

(Amendment)

702 KAR 6:040. Personnel; policies and procedures.

RELATES TO: KRS 156.010, [~~156.031,~~] 156.035, 42 U.S.C. 1751-1769b, 42 U.S.C. 1771-1789

STATUTORY AUTHORITY: KRS [~~156.031,~~] 156.035, 156.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.010(5) requires the Department of Education to develop and approve state plans required by federal law as a prerequisite to receiving federal funds for elementary and secondary education. 42 U.S.C. 1751 to 1769b and 42 U.S.C. 1771 to 1789 establish the requirements for the federal school lunch and child nutrition programs. This administrative regulation establishes the requirements for local school nutrition personnel employed by school districts.

Section 1. Each school district shall employ school nutrition personnel in a procedure consistent with KRS 160.380[~~ and 702 KAR 6:045~~].

Section 2. Each school district, through its superintendent, shall notify in writing each full-time school nutrition employee of the hours, terms and conditions of employment, lines of authority, and general responsibilities. Each district shall include an appropriate service termination policy for both the district and employee.

Section 3. Each school district shall establish and adopt a uniform pay scale for all full-time

school nutrition employees.

Section 4. Each school district shall provide workers' compensation and fulfill minimum hourly wage rates for school nutrition personnel.

Section 5. The superintendent shall cause school nutrition personnel to avail themselves of training programs offered.

Section 6. Social Security participation for school nutrition personnel shall be in keeping with Social Security policies for other nonprofessional personnel.

APPROVED:

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(Date) Kevin C. Brown
Interim Commissioner of Education

_____ _____

(Date) David Karem, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Month ##, 2020, at time, at location of the meeting. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays 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 cancelled. 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 pro-posed administrative regulation. Written comments shall be accepted through Month ##, 2020 {Insert last day of the month}. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Todd G. Allen, Interim General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, KY 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

702 KAR 6:040
Contact Person: Todd G. Allen, Todd.Allen@education.ky.gov
Phone number: 502-564-4474

(1) Provide a brief summary of:
(a) What this administrative regulation does:

The amendment strikes the reference to 702 KAR 6:045. The Kentucky Board of Education (KBE) is seeking to repeal that regulation. Thus, it is necessary to amend 702 KAR 6:040 to delete the reference to the regulation that will be repealed and no longer exist.

(b) The necessity of this administrative regulation:

It is necessary to amend this regulation to delete the reference to a regulation that is being repealed by the Kentucky Board of Education.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 156.035 authorizes the KBE to implement the provisions of any Act of Congress appropriating and apportioning funds to the state, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws. The amendment of this regulation is necessary to reflect the repeal of KRS 702 KAR 6:045. That regulation is being repealed to harmonize state and federal regulation regarding the training of nutrition employees of entities participating in the federal National School Lunch and School Breakfast Programs. KRS 156.070 authorizes the KBE to promulgate regulations as necessary for the efficient management, control and operations of schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

The existing regulation relates to the employment of school district nutrition personnel. The amendment will remove reference to a regulation that the KBE is seeking to repeal.

(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:

KRS 156.035 authorizes the KBE to implement the provisions of any Act of Congress appropriating and apportioning funds to the state, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws. The amendment of this regulation is necessary to reflect the repeal of KRS 702 KAR 6:045. That regulation is being repealed to harmonize state and federal regulation regarding the training of nutrition employees of entities participating in the federal National School Lunch and School Breakfast Programs. School nutrition employees of districts participating in the National School Lunch or School Breakfast Programs remain subject to federal program rules.

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

It is necessary to amend this regulation to delete the reference to a regulation that is being repealed by the Kentucky Board of Education.

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

KRS 156.035 authorizes the KBE to implement the provisions of any Act of Congress appropriating and apportioning funds to the state, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws. The amendment of this regulation is necessary to reflect the repeal of KRS 702 KAR 6:045. That regulation is being repealed to harmonize state and federal regulation regarding the training of nutrition employees of entities participating in the federal National School Lunch and School Breakfast Programs. KRS 156.070 authorizes the KBE to promulgate regulations as necessary for the efficient management, control and operations of schools.

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

The existing regulation relates to the employment of school district nutrition personnel. The amendment will remove reference to a regulation that the KBE is seeking to repeal.

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

School districts and school district employees.

(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:

The amendment of the regulation will remove a reference to 702 KAR 6:045 which the KBE is seeking to repeal. Removing the reference and repealing 702 KAR 6:045 will remove an administrative burden created by state required food service training that is not in alignment with the federal rules for entities participating in the National School Lunch or School Breakfast Programs.

(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 will require no action on the part of the identified entities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There is no expected fiscal impact from the proposed amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

This amendment and the repeal of 702 KAR 6:045 should reduce the administrative burden related to the confusing and overlapping state and federal training requirements by removing the state rules for certain nutrition employees.

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

(a) Initially:

There is no expected fiscal impact from the proposed amendment.

(b) On a continuing basis:

There is no expected fiscal impact from the proposed amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Kentucky Department of Education 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:

There are no fees associated with this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

There are no fees associated with this amendment.

(9) TIERING: Is tiering applied? Explain why tiering was or was not used.

No, tiering was not used. There are no fees associated with this amendment.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

702 KAR 6:040
Contact Person: Todd G. Allen, Todd.Allen@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.

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

KRS 156.035 authorizes the KBE to implement the provisions of any Act of Congress appropriating and apportioning funds to the state, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws. The amendment of this regulation is necessary to reflect the repeal of KRS 702 KAR 6:045. That regulation is being repealed to harmonize state and federal regulation regarding the training of nutrition employees of entities participating in the federal National School Lunch and School Breakfast Programs. KRS 156.070 authorizes the KBE to promulgate regulations as necessary for the efficient management, control and operations of schools.

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.

There is no expected fiscal impact from the proposed amendment on local school districts. There may be some undeterminable costs savings to school districts related to reducing the administrative training burden through the repeal of 702 KAR 6:045 and amendment of this 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?

It is not anticipated that this amendment will generate any 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?

It is not anticipated that this amendment will generate any revenue.

(c) How much will it cost to administer this program for the first year?

This amendment is not expected to have any fiscal impact.

(d) How much will it cost to administer this program for subsequent years?

This amendment is not expected to have any fiscal impact.

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 (+/-): N/A

Other Explanation:

There is no expected fiscal impact from the proposed amendment on local school districts. There may be some undeterminable costs savings to school districts related to reducing the administrative training burden through the repeal of 702 KAR 6:045 and amendment of this regulation.