

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Kentucky Board of Education

Kentucky Department of Education

(Repealer)

702 KAR 6:046. Repeal of 702 KAR 6:045.

RELATES TO: KRS 156.031, 156.160

STATUTORY AUTHORITY: KRS 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Board of Education to adopt administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. 702 KAR 6:045 established necessary qualifications and training for school nutrition employees. The need for a state training regime has been supplanted by the federal school nutrition employee training regime established in 7 CFR 210.31. The federal rule makes the state training requirements duplicative, burdensome, and no longer necessary.

Section 1. 702 KAR 6:045, Personnel; school nutrition employee qualifications, is hereby repealed.

APPROVED:

(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 proposed 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 6:046

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 regulation repeals the current state training and education requirements for local school district nutrition employees. Repeal of the state regulation makes nutrition employees of districts participating in the National School Lunch or School Breakfast Programs solely subject to the federal program training requirements found in 7 CFR 210.30. One hundred seventy (170) of the One hundred seventy-two (172) school districts participate in a federal nutrition program. Beechwood Independent Schools and Ft. Thomas Independent School District as well as the Model Laboratory School at Eastern Kentucky University do not participate in any federal nutrition program and are not subject to federal program requirements. The current combined state and federal regulatory training scheme is overly burdensome and unnecessary for participating entities. The state regulations were promulgated prior to the existing federal training requirements. Repeal will allow one training scheme and remove some of the burden and confusion for federal nutrition program participants and their nutrition employees. For the few districts that do not participate, the Kentucky Department of Education does not enforce or police state training requirements. These districts are subject to local health department requirements and inspections.

- (b) The necessity of this administrative regulation:

The state education and training requirements contained in the existing regulation are different from the federal nutrition program requirements. Repeal will create one regulatory (federal) training scheme that is less burdensome and confusing. The federal requirements render the state regulation no longer necessary.

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

The existing regulation was promulgated pursuant to KRS 156.160, which requires the Kentucky Board of Education to adopt administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. Subsequent to the promulgation of the existing state regulation, the federal government promulgated training requirements for nutrition employees (7 CFR 210.30) of providers participating in the National School Lunch Program and/or the School Breakfast Program. The federal training requirements make the state regulation unnecessary and ripe for repeal. Local school districts and other providers participating in the aforementioned federal programs are subject to the federal requirements.

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

The existing regulation deals with the education and training requirements for school nutrition employees. School districts that participate in the National School Lunch Program and/or the School Breakfast Program are subject to federal program rules. The state requirements are antiquated and their removal, through repeal, will lessen confusion and red tape by providing for one consistent set of training and education requirements.

(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:

The regulation repeals the current state training and education requirements for local school district nutrition employees. Employees of program participants remain subject to the federal training requirements found in 7 CFR 210.30. Repeal will create one regulatory (federal) training scheme that is less burdensome and confusing.

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

The regulation repeals the current state training and education requirements for local school district nutrition employees. Employees of participants in the National School Lunch and/or School Breakfast Programs are subject to the federal training requirements found in 7 CFR 210.30. Repeal will create one federal regulatory training scheme that is less burdensome and confusing.

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

The existing regulation was promulgated pursuant to KRS 156.160, which requires the Kentucky Board of Education to adopt administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. Subsequent to the promulgation of the existing state regulation, the federal government promulgated training requirements for nutrition employees (7 CFR 210.30). The federal training requirements make the state regulation unnecessary and ripe for repeal. Participating local school districts and other entities are subject to the federal program requirements. Repeal will create one regulatory (federal) training scheme that is less burdensome and confusing.

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

Repeal of the regulation will create one training scheme.

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

Local school districts participating in the National School Lunch and/or School Breakfast Programs, local school district administrators, local school district nutrition employees, and any other entity participating in the aforementioned federal nutrition programs.

(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 amend-

ment, 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:

School nutrition employees of districts participating in the National School Lunch or the School Breakfast Programs are subject to federal training requirements. The repeal of the existing state regulation removes an unnecessary layer of redundancy and outdated onerous training requirements. It may also result in a cost savings to local school districts as well as other participating entities because they will not have the cost of providing the state required training to employees.

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

No additional or new costs are anticipated.

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

There will be a single set of training and education requirements for participating school district nutrition employees.

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

(a) Initially:

Repeal of the existing regulation will have no negative financial impact on districts.

(b) On a continuing basis:

Repeal of the existing regulation will have no negative financial impact on districts.

(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:

Repeal of the existing regulation will not impact any fees or funding.

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

There are no fees associated with the regulation.

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

Tiering was not applied.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

702 KAR 6:046

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 156.160 requires the Kentucky Board of Education to adopt administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. 7 CFR 210.30 sets forth the training requirements for the employees of participants in the National School Lunch or School Breakfast Programs. The state regulation predates the federal program requirements.

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?

Repeal of 702 KAR 6:045 may result in minimal cost savings to local school districts and other participants in the National School Lunch or the School Breakfast Programs. Participants will no longer have to provide the state required trainings to new employees hired throughout the school years. As such, districts and others will not incur the costs of said trainings.

(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?

Repeal of 702 KAR 6:045 is not anticipated to generate any revenue for local school districts or other federal program participants.

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

Repeal of 702 KAR 6:045 is not anticipated to increase costs for local school districts or federal other program participants.

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

There is no anticipated negative fiscal impact from the repeal of 702 KAR 6:045.

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:

The existing regulation was promulgated pursuant to KRS 156.160, which requires the Kentucky Board of Education to adopt administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. Subsequent to the promulgation of the existing state regulation, the federal government promulgated training requirements for nutrition employees (7 CFR 210.30) of entities participating in the National School Lunch or School Breakfast Programs. The federal training requirements make the state regulation unnecessary and ripe for repeal. Participants are subject to the federal program requirements. Repeal will create one regulatory (federal) training scheme that is less burdensome and confusing.

Repeal of 702 KAR 6:045 may result in minimal cost savings to local school districts and other entities participating in the National School Lunch or School Breakfast Programs. Districts will no longer have to provide the state required trainings to new employees hired throughout the school year. As such, districts and other participants will not incur the costs of said trainings, however, it is impossible to estimate the savings for all Kentucky school districts and other participants.