

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amended After Comments)

5 702 KAR 5:080. Bus drivers' qualifications, responsibilities, and training.

6 RELATES TO: KRS 156.160, 161.011, 189.540, 49 C.F.R. Parts 380, 382 and 391~~[382-401-~~
7 ~~382-605]~~

8 STATUTORY AUTHORITY: KRS 156.160(1), 189.540

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1) requires the Kentucky Board
10 of Education to promulgate administrative regulations relating to the transportation of children to
11 and from school and to medical inspections and other matters deemed relevant to the protection of
12 the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky
13 Board of Education to promulgate administrative regulations governing the design and operation
14 of school buses. This administrative regulation establishes the qualifications, training, and
15 responsibilities of the school bus driver.

16 Section 1. ~~[(1)(a)]~~Licensing Requirement. A school bus driver shall have a current, valid
17 Commercial Driver's License with applicable endorsements and restrictions pursuant to KRS
18 281A.170 to 281A.175.

19 Section 2. Medical Fitness. (1) A local board of education shall require an annual medical
20 examination that complies with KRS 281A.175 for~~[of]~~ each school bus driver ~~[or driver of a~~
21 ~~special vehicle used to transport school children to and from school and events related to the~~

1 ~~school~~].

2 (2) A person shall not drive a school bus unless physically and mentally able to operate a school
3 bus safely and satisfactorily;

4 (3) If there is limitation of motion in joints, neck, back, arms, legs, or other body parts, due to
5 injury or disease that may limit the driver's ability to safely perform the task of driving a school
6 bus or performing other driver responsibilities, the person shall not be employed as a school bus
7 driver;

8 (4) A temporarily-injured or ill bus driver may be assigned duties other than driving until the
9 employee regains the ability to safely perform school bus driver duties.

10 (5) An otherwise medically and physically eligible school bus driver with diabetes mellitus, may
11 be employed as a school bus driver, if the driver possesses a valid federal Medical Examiner's
12 Certificate as required under 49 CFR Part 391.41.

13 (6)[(h)] A driver taking medication either by prescription or without prescription shall report said
14 medication to the immediate supervisor and shall not drive if that medication may affect the
15 driver's ability to safely drive a school bus or perform other driver responsibilities.

16 (7)(a) To ensure student safety, a district may require a school bus driver to pass a [routine] medical
17 examination or a special type medical examination more often than annually at the district's
18 expense;

19 (b)The medical examination shall include risk assessment and appropriate follow-through, as
20 established in 702 KAR 1:160, Section 1, for tuberculosis upon initial employment; and

21 (c) The medical examination shall be documented on the same form required by the Kentucky
22 Department of Transportation to obtain a commercial driver's license and retained by the district.

23 ~~[(c) A current Medical Examination Report, form TC94 35E and supplement (TC 94 35E and the~~

~~Supplement to TC 94-35E)] for each school bus driver shall be retained by the district.~~

~~(2) The medical examination shall include tests for:~~

~~(a) Hearing and vision disorders;~~

~~(b) Emotional instability; and~~

~~(c) Serious medical conditions including:~~

~~1. Diabetes;~~

~~2. Epilepsy;~~

~~3. Heart disease; and~~

~~4. Other chronic or communicable diseases if indicated in the opinion of the licensed medical examiner.~~

~~(3) The examination shall include risk assessment and appropriate follow through, as established in 704 KAR 4:020, Section 1, for tuberculosis upon initial employment.~~

~~(4) A medical examination of a school bus driver shall be reported on the Medical Examination Report, form TC94-35E and supplement, and shall be submitted to the local superintendent or the superintendent's designee.]~~

Section 3.[2:] Criminal Records Check, Driving History, and Drug Testing. (1)(a) A criminal records and driving history check shall be performed by a local district on school bus drivers prior to initial employment and prior to reemployment following~~[after]~~ a break in employment~~[service (excluding summers)]~~.

(b)1. Employment shall be contingent upon meeting the requirements of paragraph (a) of this subsection.

2. A local board of education shall adopt policies outlining employment qualifications for school bus drivers as related to these criminal records and driving history checks.

(c) A school bus driver shall immediately report to the local superintendent or the superintendent's designee a:

1. Revocation of the driver's license;
2. Conviction for driving under the influence (DUI) or driving while intoxicated (DWI)~~[DUI or DWI]~~;
3. Conviction for reckless driving; or
4. Citation for a moving motor vehicle violation, including:
 - a. Driving under the influence (DUI) or driving while intoxicated (DWI)~~[DUI or DWI]~~;
 - b. Reckless driving; or
 - c. A violation of state or local law governing motor vehicle traffic control, other than a parking violation.

(2)(a) Controlled substance and alcohol use testing shall be a condition of employment for anyone in a safety sensitive pupil transportation position, including:

1. School bus drivers;
2. School bus mechanics; and
3. Other safety-sensitive jobs requiring a Commercial Drivers License (CDL)~~[CDL]~~ license.

(b) The controlled substance and alcohol use testing program shall include the following tests:

1. Preemployment testing (controlled substance only);
2. Postaccident testing;
3. Random testing; and
4. Reasonable suspicion testing.

(c) Prospective employees who have tested positive for a controlled substance within the last five (5) years shall not be considered for employment to drive a school bus or the performance of

1 safety-sensitive services related to pupil transportation.

2 (d) A school bus driver, school bus mechanic, or anyone performing safety-sensitive pupil
3 transportation duties having a confirmed positive test for a controlled substance shall be relieved
4 of those duties immediately and not be eligible for reemployment for five (5) years.

5 (e) A school bus driver, school bus mechanic, or anyone performing safety-sensitive pupil
6 transportation duties who tests at 0.02 percent or higher on the confirmation alcohol test
7 immediately before, during, or immediately following the performance of these duties shall be
8 relieved of these duties immediately and not be eligible for reemployment in a safety-sensitive
9 pupil transportation position for five (5) years.

10 (f) A person shall not be employed as a school bus driver if convicted within the past five (5) years
11 of driving under the influence (DUI) or driving while intoxicated (DWI)~~[DUI or DWI]~~.

12 ~~[(g)1. A person shall not drive a school bus unless the person is physically or mentally able to
13 operate a school bus safely and satisfactorily.~~

14 ~~2. If there is limitation of motion in joints, neck, back, arms, legs, or other body parts, due to injury
15 or disease that may limit the driver's ability to safely perform the task of driving a school bus or
16 performing other driver responsibilities, the person shall not be employed as a school bus driver.~~

17 ~~3. Pursuant to KRS 161.011, a temporarily injured or ill bus driver may be assigned duties other
18 than driving until the employee regains the ability to safely perform school bus driver duties.]~~

19 ~~(h) A driver taking medication either by prescription or without prescription shall report to the
20 immediate supervisor and shall not drive if that medication may affect the driver's ability to safely
21 drive a school bus or perform other driver responsibilities.~~

22 Section 3. (1) ~~A person shall not drive a school bus unless the person has:~~

23 ~~(a) Visual acuity of at least 20/40 (Snellan) in each eye either without corrective lenses or by~~

1 ~~correction with corrective lenses;~~

2 ~~(b) Form field vision of not less than a total of 140 degrees; and~~

3 ~~(c) The ability to recognize the colors of traffic signals and devices showing standard red, green,~~
4 ~~and amber.~~

5 ~~(2) A driver requiring correction by corrective lenses shall wear properly prescribed corrective~~
6 ~~lenses at all times while driving.~~

7 ~~Section 4. (1) A person shall not drive a school bus if the person's hearing is less than 7/15 in the~~
8 ~~better ear, or if hearing loss is greater than forty (40) decibels if an audiogram is used, for~~
9 ~~conversational tones, with or without a hearing aid.~~

10 ~~(2) A driver requiring a hearing aid shall wear properly operating aids at all times while driving.~~

11 ~~Section 5. A school bus driver shall be at least twenty one (21) years of age.}~~

12 ~~[Section 6. (1) (2) A school bus driver shall have a current, valid Commercial Driver's License~~
13 ~~with applicable endorsements and restrictions.~~

14 ~~(2)(a) Prior to acceptance into the school bus driver training program, a driver applicant shall be~~
15 ~~required to demonstrate driving skills judged by a certified driver training instructor to meet~~
16 ~~acceptable performance standards as outlined in Preemployment Road Test found in the School~~
17 ~~Bus Drivers Curriculum Instructor's Manual.~~

18 ~~(b) The Preemployment Road Test Score Sheet supplied by the Department of Education shall~~
19 ~~become a part of the driver's training record.~~

20 ~~(c) A driver shall demonstrate the following skill levels:~~

21 ~~1. Vehicle knowledge; and~~

22 ~~2. Driver ability to~~

23 ~~a. Perform steering, maneuvering, and braking;~~

1 ~~b. Use mirrors;~~

2 ~~c. Demonstrate~~

3 ~~(i) Ninety (90) degree left hand turns steering technique;~~

4 ~~(ii) Ninety (90) degree right hand turns steering technique;~~

5 ~~(iii) Correct operating posture;~~

6 ~~(iv) Visual awareness;~~

7 ~~(v) Backing ability using mirrors only; and~~

8 ~~(vi) Demonstration of spatial awareness.]~~

9 Section ~~4.~~~~[7. (1)]~~ Training Requirements. (1)(a) Minimum training requirements to become a
10 school bus driver shall consist of the successful completion of the twenty-one (21) hour initial
11 training course and follow-up reviews as set forth in the Kentucky School Bus Driver Trainer
12 Manual~~[training course developed by the Kentucky Department of Education and three (3) driver~~
13 ~~review, evaluation, and instruction components].~~

14 (b) Prior to the beginning of each school year, a bus driver shall successfully complete a district
15 specific eight (8) hour update training.

16 (c) Each district shall annually provide the eight (8) hour update training, which shall be aligned
17 with the Kentucky School Bus Driver Trainer Manual, address the needs of the district's school
18 bus drivers, and be conducted by a driver trainer certified in accordance with subsection two (2)
19 of this Section.

20 (d) The eight (8) hour update training shall be provided after the district's last student attendance
21 day of the school year, but prior to opening day of the proceeding school year.

22 (e) In the event a district employs a school bus driver, after the eight (8) hour annual update training
23 was provided to bus drivers, the district shall provide the driver with the update training prior to

1 allowing the driver to transport students.

2 (f) If a school bus driver leaves the employment of a school district as a bus driver, and is
3 subsequently reemployed in the district as a driver, the driver shall complete the eight (8) hour
4 update training within twelve (12) months following the driver's last date of employment in the
5 district as a bus driver.

6 (g) A driver who does not timely complete the annual eight (8) hour update training and
7 recertification pursuant to this section shall be required to complete the twenty-one (21) hour initial
8 training course.

9 (2)(a) A driver trainer shall satisfactorily complete the thirty-three (33) hour classroom and driving
10 curriculum developed by the Department and delivered by a state approved driver trainer
11 instructor.~~[person shall not be certified to teach the school bus driver training curriculum until that~~
12 ~~person has:~~

13 ~~(a) Satisfactorily completed a minimum of thirty three (33) of hours classroom and driving~~
14 ~~instruction conducted by the Department of Education and relevant to the driver training~~
15 ~~curriculum; and~~

16 ~~(b) Been issued an instructor's certificate by the commissioner of education.]~~

17 (b)[(3)] Driver trainers shall annually complete a minimum of six (6) hours of training developed
18 by the Department and delivered by a state approved driver trainer.~~[Instructors shall be required~~
19 ~~to renew their certificates annually by completing six (6) hours of update training conducted by~~
20 ~~the Department of Education.~~

21 ~~(4) The School Bus Driver Training Course core curriculum shall consist of the following~~
22 ~~instructional units and minimum instructional times:~~

23 ~~(a) Laws and regulations, which shall include at least two (2) hours of instructional time;~~

~~(b) Driving fundamentals, which shall include at least two (2) hours of instructional time;~~

~~(c) Care and maintenance, which shall include at least two (2) hours of instructional time;~~

~~(d) Critical situations one, which shall include at least one (1) hours of instructional time;~~

~~(e) Incidents and emergency procedures, which shall include at least two (2) hours of instructional time;~~

~~(f) Pupil management, which shall include at least two (2) hours of instructional time;~~

~~(g) First aid, which shall include at least one (1) hours of instructional time;~~

~~(h) Special education transportation, which shall include at least one (1) hours of instructional time;~~

~~(i) Extracurricular trips, which shall include at least one (1) hours of instructional time;~~

~~(j) Vehicle operations, which shall include at least three (3) hours of instructional time;~~

~~(k) Vehicle control at speed, which shall include at least one (1) hours of instructional time; and~~

~~(l) Bus route identification, driver review and instruction, which shall include at least two (2) hours of instructional time.~~

~~(5) Upon successful completion of the core curriculum, the school bus driver applicant shall complete the following:~~

~~(a) Driver review I, evaluation and instruction, which shall include at least two (2) hours of instructional time within the first five (5) days of driving;~~

~~(b) Driver review II, evaluation and instruction, which shall include at least two (2) hours of instructional time after not less than twenty (20) days and not more than thirty (30) days of driving;~~

~~and~~

~~(c)1. Driver review III evaluation and instruction, which shall include at least one (1) hour of instructional time within three (3) to six (6) months of completion of driver review II.~~

1 ~~2. Driver review III shall be done with students on the bus.~~

2 ~~Section 8. (1)(a) Prior to the beginning of each school year, a certified driver shall annually~~
3 ~~complete an eight (8) hour training update relevant to the curriculum.~~

4 ~~(b) Each district shall be responsible for planning and conducting its own update based on the~~
5 ~~needs of its drivers and to ensure student safety. A district unable to administer its own eight (8)~~
6 ~~hour update shall receive prior written approval from the Department of Education before sending~~
7 ~~a driver to receive the training from another district.~~

8 ~~(2) Discontinuance of driver employment and subsequent reemployment shall require the driver~~
9 ~~to become requalified by a training update within the twelve (12) month period following the~~
10 ~~driver's certification termination date.~~

11 ~~(3) A driver who does not complete the training update and recertification as required by~~
12 ~~subsection (2) of this section shall be required to complete the beginning training program.]~~

13 Section 5.[9.] First Aid and Cardiopulmonary Resuscitation (CPR). All school bus drivers, pupil
14 transportation technicians, and employees that transport students shall, at a minimum, receive basic
15 first aid and CPR training by a person with a valid certificate in first-aid training, including CPR,
16 from the American Red Cross, or equivalent training that can be verified by documentary evidence.

17 Section 6. Emergency Operation. (1) If an emergency makes it necessary for the driver to leave
18 the bus while pupils are on board, the driver shall follow local board policy.[:

19 ~~(1) Move the bus to a safe location if possible;~~

20 ~~(2) Stop the engine;~~

21 ~~(3) Shift the bus to low gear or place in neutral if automatic equipped;~~

22 ~~(4) Set the parking brake;~~

23 ~~(5) Remove the ignition key; and~~

~~(6) Place one (1) of the older responsible pupils in charge during the driver's absence if appropriate.~~

~~Section 10. (2) A driver shall not permit a pupil to operate the entrance handle or any other bus control except in case of an emergency[school bus at all times in a manner that provides the maximum amount of safety and comfort for the pupils under the circumstances].~~

Section 7.[11.] Transport of Items on School Bus. (1)(a) A local board of education shall develop a policy regarding the transport of persons and items on a school bus.

(b) To ensure student safety, the policy shall include:

1. A prohibition on firearms or weapons, either operative or ceremonial; however, the policy may permit archery bows, used in connection with a school archery team, to be transported inside the passenger compartment and arrows transported in the underneath storage compartment;

2. A prohibition on fireworks or other explosive materials of any type;

3. A prohibition on live animals, except for a service animal necessary for the student to attend school [as documented by a pupil's Individual Education Program];

4. A prohibition on glass objects or helium balloons; and

5. A prohibition on any object that may block the bus aisle or exits or otherwise impede exiting the bus;

(c) The policy may additionally address issues related to the safe transport of students, including but not limited to eating and drinking on the school bus.

Section 8. Student Assignment. (1) A driver shall transport only those pupils officially assigned to a bus trip unless an unassigned pupil presents the driver with a written permit to ride the bus trip that has been signed by the school principal or designee.

(2) A driver shall not permit an assigned pupil to leave the bus at a stop other than the pupil's regular stop unless presented with written permission signed by the principal or a designee.

1 (3) A driver shall not transport a person who is not a student, including adult employees of the
2 board, unless provided with written permission from the district superintendent or a designee.

3 Section 9. Student Seating. (1) A driver shall supervise the seating of the pupils on the bus and
4 may assign a pupil to a specific seat on the bus.

5 (2)(a) The driver shall make certain the seating capability of the bus has been fully utilized before
6 any pupil is permitted to stand in the bus aisle.

7 (b) A driver shall not permit pupils to stand:

8 1. In the stepwell or landing area;

9 2. If the pupil would likely fall out of the bus if the emergency door were opened; or

10 3. If the driver's view directly in front of the bus or to either side of the front of the bus would be
11 obscured.

12 (3) A driver shall report to the superintendent or a designee an overcrowded condition on the bus.

13 ~~[Section 12. (1) A driver shall transport only those pupils officially assigned to a particular bus~~
14 ~~trip unless an unassigned pupil presents the driver with a written permit to ride the bus trip that has~~
15 ~~been signed by the school principal or a designee.~~

16 ~~(2) Except as provided in Section 18(2)(c) and (d) of this administrative regulation, a driver shall~~
17 ~~not permit an assigned pupil to leave the bus at a stop other than where the pupil regularly leaves~~
18 ~~the bus unless presented with a written permission signed by the principal or a designee.~~

19 ~~Section 13. A driver shall not transport a person who is not a student, including adult employees~~
20 ~~of the board, unless provided with written permission from the district superintendent or a~~
21 ~~designee.~~

22 ~~Section 14. A board of education shall develop a policy regarding what may or shall not be~~
23 ~~transported on a school bus. The policy shall include the following:~~

~~(1)(a) A driver shall not knowingly permit any firearms or weapons, either operative or ceremonial, to be transported on the bus.~~

~~(b) The driver shall not knowingly permit fireworks or other explosive materials of any type to be transported on the bus;~~

~~(2) A driver shall not permit to be transported on the bus:~~

~~(a) live animals, except for an animal that is:~~

~~1. To enable a person to safely utilize the bus transportation as documented by:~~

~~a. Adequate medical evidence; or~~

~~b. A student's Individual Education Plan; and~~

~~2. Not a risk to other bus riders;~~

~~(b) A preserved specimen that would likely frighten a pupil or cause a commotion on the bus; or~~

~~(c) Glass objects or helium balloons; and~~

~~(3) A driver shall not permit the transportation of an object that may block the bus aisle or exits.~~

~~Section 15. A driver shall not permit a pupil to operate the entrance door handle or any other bus control except in case of an emergency.]~~

Section 10.~~[16:]~~ Loading and Unloading. (1) A driver shall activate the flashing amber signal lights at least 200~~[150]~~ feet, if available, or a sufficient distance from a bus stop to warn motorists of the intended stop.

(2) Once the bus comes to a complete stop, the driver shall follow the loading and unloading procedure outlined in the Kentucky School Bus Driver Trainer Manual ~~[Chapter 7 of the School Bus Drivers Curriculum Instructor's Manual]~~.

(3) A stop signal arm and flashing warning lights shall be in operation anytime pupils are boarding or leaving the bus, including on school property.

1 (4) A driver shall signal pupils to board or exit only after determining that any visible approaching
2 traffic has come to a complete stop and is not beginning to move or attempting to pass the bus.

3 (5) A driver of a school bus shall be on the bus at all times students are loading or unloading.

4 Section 11.[47:] Fueling. For safety reasons, a driver shall not permit fueling of the bus while
5 pupils are on board the bus.

6 Section 12.[48:] Student Conduct. (1) Local boards of education shall adopt policies related to
7 student conduct on school buses.

8 (2) If a pupil's conduct on the bus makes it unsafe for the bus to continue on its route, the driver
9 shall follow local district policy.[:]

10 ~~(1) Make a determination as to the potential danger to other students on the bus; and~~

11 ~~(2) Take action against the student by:~~

12 ~~(a) Requesting that the student stop engaging in the prohibited conduct;~~

13 ~~(b) If feasible, sending for assistance if the student fails to comply with the driver's order or request;~~

14 ~~(c) Ordering the student to leave the bus; or~~

15 ~~(d) Ejecting the pupil from the bus.~~

16 (3)(a)[4:] Ejecting a pupil from the bus shall be done only in the most extreme circumstances;
17 and[:]

18 (b)[2:] If a student has been ejected from a bus [as the result of conduct specified in subsection (1)
19 of this section,]the driver shall notify the immediate supervisor who shall notify the appropriate
20 district authorities, who shall subsequently notify the student's parent or legal guardian according
21 to local board policy.

22 Section 13.[49:] Railroad. A school bus driver shall stop the bus at all places where the roadway
23 crosses a railroad track or tracks at the grade level. The stop shall be made not less than fifteen

(15) feet and not more than fifty (50) feet from the nearest track.

(1) After making the stop, the driver shall:

(a) Set the parking brake;

(b) Shift to neutral;

(c) Activate the noise abatement switch;

(d) Open the service door and driver side window; and

(e) Carefully look in each direction and listen for approaching trains before proceeding.

(2) If visibility is impaired at a crossing, after stopping the driver may allow the vehicle to roll forward to gain required visibility before proceeding.

(3) When a driver has ascertained that it is safe for the bus to cross the railroad tracks or tracks at the grade level, the driver shall:

(a) Close the bus entrance door;

(b) Shift the bus into the lowest gear;

(c) Release the parking brake;

(d) Proceed immediately to cross the railroad tracks or tracks at the grade level; and

(e) Turn the noise abatement switch off when safe to do so.

Section ~~14.~~^[20:] Driver Inspection. (1) A driver shall perform and document a pretrip inspection of the bus safety and operating equipment each time that the bus is taken out for the transportation of pupils.

~~(2)~~^[Section 21. (1)] A school bus driver shall inspect the school bus at the completion of each bus run to ensure that no students remain in the bus.~~[not operate the school bus at a speed in excess of the posted speed limit on any section of highways over which the bus travels]~~

~~(2)~~^{[Section 15. Road Conditions.} A driver shall not drive the school bus on any roadway ~~[at any~~

~~time at a speed]~~ if the conditions of the roadway, weather conditions, or other extenuating circumstances may make it unsafe.

Section 16. Driver Seat Belt.~~[Section 22.]~~ A driver shall wear the driver's seat belt at all times that the bus is operated.

~~[Section 23. A stop signal arm and flashing warning lights shall be used only at stops where pupils are boarding or leaving the bus.~~

~~Section 24.]~~ Section 17. Tobacco. A driver shall not use tobacco products on the school bus and shall not permit pupils to use tobacco products on the school bus.

~~[Section 25. A driver shall signal pupils to board or leave the bus when the driver has determined that any visible approaching traffic has come to a complete stop and is not attempting to start up or pass the bus.~~

~~Section 26. (1) A driver shall not operate a school bus while under the influence of alcoholic beverages or any illegal drug or other drug.~~

~~(2) A driver found under the influence of alcohol or any illegal drug while on duty or with remaining driving responsibilities that same day shall be dismissed from employment.~~

~~Section 27. A driver of a school bus shall be on the bus at all times students are loading or unloading.~~

~~Section 28. A driver shall inspect the school bus at the completion of each bus run to ensure that students do not remain on the bus.~~

~~Section 29.]~~ Section 18. Drug and Alcohol. (1) A driver shall not operate a school bus while under the influence of alcoholic beverages or any illegal drug or other drug.

(2) A driver found under the influence of alcohol or any illegal drug while on duty or with remaining driving responsibilities shall, that same day, be dismissed from employment.

1 **Section 19.** Incorporation by Reference. (1) The following material is incorporated by reference:

2 (a) ~~“Kentucky School Bus Driver Trainer Manual, Kentucky School Bus Drivers Curriculum”,~~
3 ~~October 2019[“Medical Examination Report”, Form TC 94-35E and Supplement to TC 94-35E,~~
4 ~~October 2007;~~

5 (b) ~~“Preemployment Road Test”, Score Sheet January 2002; and~~

6 (c) ~~“School Bus Drivers Curriculum Instructor’s Manual”, October 2007].~~

7 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the
8 Pupil Transportation Branch, Department of Education, 300 Sower Boulevard, Frankfort, KY
9 40601~~[15th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601]~~, Monday
10 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)

Kevin C. Brown
Interim Commissioner of Education

(Date)

David K. Karem, Chairperson
Kentucky Board of Education

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 702 KAR 5:080
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 revises KDE's school bus driver training requirements and brings them into alignment with recent changes to Federal Motor Carrier Safety Administration federal regulations (49 CFR part 380) related to entry-level driver training. Additionally, the amendment reorganizes and streamlines the existing regulation to clearly communicate policies and procedures for the safe operation of school buses and transportation of students.

(b) The necessity of this administrative regulation:

This regulation has not been amended since 2007. Recent changes to federal regulations related to commercial vehicle entry-level driver training (49 CFR part 380), applicable to school bus drivers, require changes to KDE's driver training curriculum. Additional changes to the regulation include a reorganization of existing sections to better communicate best practices for safe school bus operation and safety.

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

KRS 156.160(1) requires the KBE to promulgate administrative regulations relating to the transportation of children to and from school and to medical inspections and other matters deemed relevant to the protection of the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky Board of Education to promulgate administrative regulations governing the design and operation of school buses. This administrative regulation establishes the qualifications, training, and responsibilities of the school bus driver.

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

KRS 189.540 requires the KBE to promulgate administrative regulations governing the design and operation of school buses. The proposed amendment will align Kentucky's training requirements for school bus drivers with recent changes to federal rules (49 CFR part 380) for entry-level driver training. The federal regulations are applicable to school bus drivers.

(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 amendment updates the training requirements for Kentucky school bus drivers to comply with recent federal rule changes (49 CFR part 380). Additionally, the amendment reorganizes and streamlines the regulation to provide for the safe operation of school buses and transportation of school children.

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

This regulation has not been amended since 2007. Recent changes to federal regulations related to

commercial vehicle entry-level driver training (49 CFR part 380), applicable to school bus drivers, require changes to KDE's driver training curriculum. Additional changes to the regulation include a reorganization of existing sections to better communicate best practices for safe school bus operation and safety.

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

KRS 156.160(1) requires the KBE to promulgate administrative regulations relating to the transportation of children to and from school and to medical inspections and other matters deemed relevant to the protection of the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky Board of Education to promulgate administrative regulations governing the design and operation of school buses. This administrative regulation establishes the qualifications, training, and responsibilities of the school bus driver.

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

KRS 189.540 requires the KBE to promulgate administrative regulations governing the design and operation of school buses. The proposed amendment will align Kentucky's training requirements for school bus drivers with recent changes to federal rules (49 CFR part 380) for entry-level driver training. The federal regulations are applicable to school bus drivers.

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

The regulation will impact all 172 Kentucky school districts. All new bus drivers, after the effective date of the amendment, will be subject to the new training requirements. The amendments to the school bus driver training regime is required by federal regulation effective February 2020. (49 CFR part 380).

(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 amended training curriculum will replace the existing training. After the effective date of the regulation, all new bus drivers will receive the new training and updates. The changes to the entry-level driver training is required by 49 CFR part 380, effective February 2020.

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

There should be no additional cost to providing the new training.

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

The new training requirements complies with the recent changes to 49 CFR part 380. The changes to entry level driver training are required for all commercial vehicle drivers including school bus drivers.

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

- (a) Initially: There is no additional cost to school districts or new school bus drivers.
- (b) On a continuing basis: There is no additional cost to school districts or new school bus drivers.
- (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 the proposed regulation 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 administrative regulation.
- (9) TIERING: Is tiering applied? Tiering was not applied. There are no fees associated with the proposed regulation amendment.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 702 KAR 5:080
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?
Local 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(1) requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and to medical inspections and other matters deemed relevant to the protection of the physical welfare and safety of public school children.

KRS 189.540 requires the Kentucky Board of Education to promulgate administrative regulations governing the design and operation of school buses. This administrative regulation establishes the qualifications, training, and responsibilities of the school bus driver.

49 CFR part 380 provides requirements for entry-level driver training of commercial vehicles, including school buses.

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.

No additional fiscal impact is anticipated. The amendment, when effective, replaces the existing training requirements.

(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 proposed amendment is not expected to 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 proposed amendment is not expected to generate revenue.

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

Administration of the proposed amendment is not expected to exceed current expenditures in the first year.

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

Administration of the proposed amendment is not expected to exceed current expenditures in subsequent years.

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 (+/-): Minimal to none.

Other Explanation: The intent of the proposed amendment is to update Kentucky's school bus driver training requirements to conform with the federal requirements of 49 CFR part 380, effective February 2020. Additionally, the amendment reorganizes and streamlines the regulation to clearly communicate the proper policies and procedures for the safe operation of school buses and transportation of students.

Summary Page – Incorporation by Reference

702 KAR 5:080. Bus drivers' qualifications, responsibilities, and training.

The following documents are incorporated by reference:

(1) "Kentucky School Bus Driver Trainer Manual", October 2019. The document incorporated by reference consists of 350 pages. The manual sets forth the training requirements for school bus driver trainers and school bus drivers.

STATEMENT OF CONSIDERATION
RELATING TO 702 KAR 5:080
Bus drivers' qualifications, responsibilities, and training

Kentucky Board of Education
Department of Education

Amended After Comments

I. A public hearing was scheduled for the above regulation on February 24, 2020 at 10:00 a.m. Eastern Time at the Kentucky Department of Education, 300 Sower Boulevard, Frankfort, Kentucky, but was cancelled because no one registered to attend.

II. The following individuals submitted written or verbal comments:

Disclaimer: All titles and affiliations were provided by the commenters through written public comments or testimony at the public hearing. The titles and affiliations of each person have not been evaluated by the agency, and the listing of specific titles and affiliations in this Statement of Consideration does not confer status or actual authority upon an individual not otherwise qualified by other authoritative source.

<u>Name</u>	<u>Title and Affiliation</u>
Lucy Heskins	Attorney Supervisor, Kentucky Protection and Advocacy
Kerri Schelling	Executive Director, Kentucky School Boards Association

III. The following people from the promulgating administrative body responded to the written comments:

<u>Name and Title</u>
Robin Fields Kinney, Associate Commissioner, Office of Finance and Operations
Todd G. Allen, Interim General Counsel, Office of Legal Services
Matt Ross, Executive Advisor, Office of Finance and Operations
Donna Duncan, Division Director, Office of Finance and Operations

IV. Summary of Comments and Responses

(1)Subject Matter: Proposed Amendment to include requirement that bus drivers have a Child Abuse and Neglect (CA/N) Registry check.

(a)Comment: Lucy Heskins, Attorney Supervisor, Kentucky Protection and Advocacy suggested a clarifying amendment within Section 3 of the proposed regulation to include the requirement that a school bus driver have a clear Certified Abuse and Neglect (CA/N) registry check provided by the Kentucky Cabinet for Health and Family Services as required by KRS 160.380(6).

(b)Response: The agency carefully reviewed this comment and does not believe that it is necessary to include the clear CA/N requirement in the proposed regulation amendment. A CA/N check is

required for school bus drivers and other school employees pursuant to KRS 160.380(6), and thus, reiterating this requirement in regulation is contrary to regulation drafting requirements set forth in KRS 13A. KRS 160.380(6) requires a CA/N check for, among others, each new certified or classified hire, which includes school bus drivers. Further, KRS 160.380(5) prohibits a superintendent from employing any person with a substantiated finding of child abuse or neglect.

The proposed amendment does include the requirements that the district perform a criminal records check, obtain a diver history, and conduct drug testing. These requirements are specific to a school bus driver's commercial driver's license as follows: KRS 281A.100, authorizing the release of information regarding commercial driving history record; KRS 281A.220 authorizing testing to determine alcohol concentration or presence of other controlled substances; and KRS 281A.300, criminal background check. The proposed regulation amendment simply requires the employing school district to obtain the relevant information and perform the appropriate testing just as any responsible common carrier as is provided for under KRS Chapter 281A, Commercial Driver's Licenses.

(2)Subject Matter: Proposed Amendment to include requirement that bus drivers receive specialized training in transporting students with disabilities.

(a)Comment: Lucy Heskins, Attorney Supervisor, Kentucky Protection and Advocacy suggested annual training for school bus drivers include the National Highway Transportation Safety Administration (NHTSA) School Bus Driver In-Service Safety Series Transporting Students with Special Needs for School Bus Drivers, and that school bus drivers shall review and follow the Individual Education Program (IEP) and Behavior Intervention Program (BIP) of all special education students whose educational programming or behavioral needs extends to transportation.

(b)Response: The agency carefully reviewed this comment and does not believe that this is the appropriate regulation to insert a requirement that all school bus drivers annually receive the NHTSA School Bus Driver In-Service Safety Series Transporting Students with Special Needs for School Bus Drivers training or for school bus drivers to review IEPs or BIPs. The NHTSA training is a one-time in-service training that can be provided by the district to drivers and substitutes who provide special transportation pursuant to a student's IEP. A school bus driver is provided IEP or BIP information by the school district only as necessary in accordance with the Family Educational Rights & Privacy Act (FERPA). The commenter's proposed amendments are district specific responsibilities based on the unique needs of each child and not necessarily applicable to all school bus drivers. These requirements are better suited for inclusion in 702 KAR 5:030, Pupil Transportation, if prescribed by regulation. The agency intends to amend 702 KAR 5:030 at a later date and invites the commenter to provide such comments for inclusion at that time.

(3)Subject Matter: Proposed Amendment to restore language related to the termination of a driver found under the influence of alcohol or any illegal drug while on duty.

(a)Comment: Kerri Schelling, Executive Director, Kentucky School Boards Association suggested the restoration of language in the amendment prohibiting a bus driver from being under the influence of illegal drugs or alcohol while on duty that is enforceable without any question as to legality.

(b)Response: The agency carefully reviewed this comment and agrees that the proposed restoring language related to driver drug and alcohol use provides clarity. The agency agrees to revise the proposed regulation to include such amendment.

(4) Subject Matter: Interplay between the text of the regulation and the incorporated by reference driver training manual.

(a)Comment: Kerri Schelling, Executive Director, Kentucky School Boards Association has concerns about perceived inconsistent language between the regulation and the manual related to eating and drinking on the bus and the removal of the enumerated steps a driver is to take in an emergency situation in favor local districts establishing their own policies.

(b)Response: The agency carefully reviewed this comment and does not believe that it is necessary to amend the proposed regulation or the training manual incorporated by reference in response to this comment. The regulation permits school districts to set their own policy related to eating or drinking on a school bus. The training manual uses eating or drinking as an example of an activity that, if prohibited, might distract a driver. It is not that the activity by its nature is necessarily distracting in every circumstance, but when it is prohibited and a driver may have to intervene or discipline a student it may become a safety issue. Secondly, the commenter prefers that the agency not delete the enumerated steps a driver is to take if an emergency makes it necessary for the driver to leave the bus while pupils are on board. The amendment permits local districts to set their own policy in this situation. The agency will continue to train drivers on proper bus shutdown and emergency procedures, however, some districts currently do not permit their drivers to leave pupils at all. The proposed regulation recognizes that districts are capable of establishing policies appropriate for their students and employees in such situations.

Summary of Statement of Consideration
and Action Taken by Promulgating Administrative Body

The public hearing on this administrative regulation was scheduled for February 24, 2020 at 10:00 a.m., in the State Board Room, Fifth Floor, Kentucky Department of Education, 300 Sower Boulevard, Frankfort, Kentucky, but was later cancelled due to no notice of anticipated attendees. Two written comments were received. The agency responded to the comments and will amend the administrative regulation as a result of comments.

The agency proposes the following amendments after comments to the administrative regulation:

Page 16
Section 18
Line 20

After “Section 18” insert “Drug and Alcohol. (1) A driver shall not operate a school bus while under the influence of alcoholic beverages or any illegal drug or other drug. (2) A driver found under the influence of alcohol or any illegal drug while on duty or with remaining driving responsibilities shall, that same day, be dismissed from employment. Section 19.”