

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Request from Fort Thomas Independent School District for Waiver of 702 KAR 5:060

Date: April 2020

Action Requested: ☐ Review ☒ Action/Consent ☐ Action/Discussion

Held In: ☒ Full Board ☐ Curriculum, Instruction and Assessment ☐ Operations

SUMMARY OF ISSUE BEFORE THE BOARD:

To take action on a request from the Fort Thomas Independent school district to waive 702 KAR 5:060, Section 6 (2).

COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends the Kentucky Board of Education (KBE) approve the request from Fort Thomas Independent to waive the requirements of 702 KAR 5:060, Section 6 (2), to allow continuing approval to use certificated common carriers. The waiver shall remain effective on an ongoing basis so long as the Fort Thomas Board of Education annually unanimously approves of the continuation of the waiver and provides written documentation of such to the Kentucky Department of Education (KDE) on or before April 15 of each year for the following school year. The KBE shall reserve the right to reconsider the waiver at any time through board action.

APPLICABLE STATUTE OR REGULATION:

KRS 157.420 (4), KRS 157.622, KRS 157.620, 702 KAR 4:180

BACKGROUND:

Existing Policy:

Pursuant to 702 KAR 5:060, school districts may utilize appropriately certificated common carriers to transport students to or from school-related events. The use of a common carrier service shall be approved by the local board of education and the justification cited in the board minutes. The local board is required to approve use of a common carrier service, in lieu of qualifying school buses, on a case-by-case basis.

KRS 156.160 (2) permits the KBE to waive the applicability of certain administrative regulations, at the request of a local board of education, when the waiver request provides an equally effective alternative, implementation of the regulation causes an undue hardship, or there is a finding of good cause for the waiver. The KBE may not waive regulations related to health and safety, civil rights, federal requirements and those related to measurement of district performance outcomes.

Summary of Issue:

Fort Thomas Independent is fairly unique among Kentucky school districts. Due to its compact urban layout, most of its students live within walking distance to school. Therefore, the district does not provide daily transportation to students except under certain special circumstances. The district does not own full-size school buses. Instead, it contracts with common carriers when there is a need to transport large numbers of students.

Fort Thomas Independent annually requests the KBE to waive 702 KAR 5:060, Section 6 (2). This is the 11th annual district waiver request. The KBE granted all prior requests. The waiver allows the school board to have a one-time annual approval of all certificated common carriers to be used by the board for the entire school year. The district only owns three small school buses for use in transporting special needs students and for small trips, if available. It relies on procuring charter bus services for field trips and extra-curricular activities. The waiver allows the superintendent to approve the use of a common carrier without continually seeking approval from the local board.

The Fort Thomas Independent Board of Education approved making the request to the state board at its January 15, 2020 meeting. This year the district is requesting a continuing waiver effective for the 2020-2021 and beyond, for so long as necessary. A copy of the letter of request is attached. The KBE previously approved a one year waiver for the 2018-2019 school year at the April 10, 2019 meeting.

As described above, Fort Thomas Independent's lack of traditional school buses is fairly unusual for Kentucky school districts, and requiring the district and KBE to annually revisit the issue is an unnecessary administrative burden. Therefore, while the KBE historically grants an annual waiver effective for one school year, it is the recommendation of the Commissioner that a continuing waiver be granted for an indefinite period so long as Fort Thomas Independent annually revisits the issue with the local board and obtains unanimous approval of the board on an annual basis for the use of common carriers for special circumstances.

Budget Impact:

There is no budget impact to the KDE.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

No groups were consulted as this is an annual request from Fort Thomas Independent that impacts no other school districts.

CONTACT PERSON(S):

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Interim Commissioner of Education

Category: <input type="checkbox"/> District Innovation <input type="checkbox"/> Strengthening Educators <input type="checkbox"/> Family/Community Involvement <input checked="" type="checkbox"/> Student/Family Supports <input type="checkbox"/> Student Interventions <input type="checkbox"/> Coursework Completion <input type="checkbox"/> Accountability Reporting
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