

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Emergency Amendment of 702 KAR 7:125E. Pupil attendance

Date: July 2020

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

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

SUMMARY OF ISSUE BEFORE THE BOARD:

To review the proposed emergency amendment to 702 KAR 7:125, Pupil attendance.

COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve the emergency amendment to 702 KAR 7:125, Pupil attendance. The promulgation of this emergency regulation is necessary to meet an imminent threat to public health, safety or welfare; to protect human health; and to prevent loss of state funds.

APPLICABLE STATUTE OR REGULATION:

KRS 156.070, 156.160, 157.320, 158.070, KRS 13A.190(1)(a) and KRS 39A.180 authorizes the promulgation of administrative regulations to effectuate Executive Order 2020-243.

BACKGROUND:

Existing Policy:

On March 6, 2020, Governor Andy Beshear signed Executive Order 2020-215 declaring a State of Emergency created by the COVID-19. In response to this emergency situation, all school districts closed schools to in-person classes beginning the week of March 16, 2020. On March 18, 2020, Governor Beshear entered Executive Order (EO) 2020-243 which encouraged all Kentucky citizens take feasible measures to engage in appropriate social distancing as recommended by the Centers for Disease Control and Prevention (CDC) and Kentucky Department of Public Health. Further, EO 2020-243 ordered the Kentucky Department of Education (KDE) to take steps to ensure appropriate social distancing, including permitting educational requirements to be satisfied through online courses, to the extent practicable. EO 2020-243 suspended statutes requiring physical presence of participants in meetings or interactions. Kentucky public schools remained closed to in-person classes for the remainder of the 2019-2020 school year to prevent the spread of COVID-19. To assist school districts, the General Assembly passed SB 177 (2020), which authorized the Commissioner of Education to grant an unlimited number of Nontraditional Instructional (NTI) days. As school districts plan to reopen in the fall for the 2020-2021 school year, it is necessary to temporarily amend 702 KAR 7:125, the pupil attendance regulation.

Summary of Issue:

This emergency administrative regulation is being filed to allow school districts the ability to provide and receive funding for a variety of instructional delivery models to meet the needs of their students and communities in light of continued COVID-19 risks and necessary prevention measures. These models include traditional in-person instructional days, periods of complete virtual learning through NTI, and days of blended in-person and NTI delivery. This emergency regulation is temporary in nature and will expire as provided for in KRS 13A.190. An ordinary administrative regulation would not timely address the need for school districts to plan for and deliver instruction for the 2020-2021 school year.

The proposed regulation amendment temporarily suspends the collection of student attendance data for funding purposes. In its place it establishes a process for collecting student participation, and requires the reporting and publication of district student participation rates to the KDE and the Legislative Resource Commissioner. Additionally, the amendment defines NTI and permits Commissioner to grant an unlimited amount of NTI days as was permitted by SB 177 (2020). These amendments are critical for allowing districts the flexibility to return to school for the 2020-2021 school year.

Budget Impact

There is no budgetary impact to the KDE.

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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 type="checkbox"/> Student/Family Supports	<input type="checkbox"/> Student Interventions	<input type="checkbox"/> Coursework Completion <input checked="" type="checkbox"/> Accountability Reporting