



# KENTUCKY DEPARTMENT OF EDUCATION

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## MEMORANDUM

TO: All School District Superintendents

FROM: Kevin C. Brown, Interim Commissioner of Education *Kevin C. Brown*

DATE: June 24, 2020

SUBJECT: STUDENT PARTICIPATION AND EMERGENCY FUNDING CALCULATIONS FOR THE 2020-21 SCHOOL YEAR

In response to the emergency situation in the Commonwealth of Kentucky created by the Novel Coronavirus (COVID-19), 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 to 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. Furthermore, 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 2019-20 school year to prevent the spread of COVID-19.

As school districts prepare to begin the 2020-21 school year, they are planning for a variety of instructional delivery models to meet the needs of their students and communities in light of continued COVID-19 risks and prevention measures. These models include traditional in-person instructional days, periods of complete virtual learning through Non-Traditional Instruction (NTI), and days of blended in-person and NTI delivery. Kentucky's current structure for instructional delivery and corresponding funding never anticipated the type of global health pandemic we and the rest of the nation continue to experience. In order to provide school districts with the flexibility they need to implement the various instructional delivery models that are best for their students and communities as COVID-19 prevention measures evolve, suspension of certain statutes is necessary. Specifically, school districts are in need of flexibility to conduct more than ten (10) NTI days as provided in 158.070(9), and seek a funding mechanism that is predictable and does not risk the loss of substantial state educational funding based on average daily attendance (ADA).

**Pursuant to the authority set forth in EO 2020-243, KRS 158.070(9) is hereby suspended for the 2020-21 school year.** As Commissioner of Education, I will recommend an emergency administrative regulation to the Kentucky Board of Education (KBE) for adoption that will allow the Commissioner to grant an unlimited number of student instructional days for school districts that have an NTI plan approved by the Commissioner.

Compulsory attendance as required by KRS Chapter 159 remains in force. School districts will work with their students and families to engage each student and promote participation in accordance with KRS

Chapter 159, applicable administrative regulations, and local board policies whether instruction is delivered in-person, remotely through NTI, or a blended in-person and NTI model. I will recommend an emergency administrative regulation to the KBE for adoption that sets forth guidelines for recording student participation during traditional instructional days, NTI days, and blended in-person and NTI days. These recording guidelines will not only assist districts in more uniform recording of remote learning, but it will also provide transparency to communities regarding student participation throughout a variety of instructional delivery models.

**To prevent the loss of substantial state funding traditionally based on ADA so that districts may utilize a variety of instructional delivery models in response to COVID-19, and pursuant to the authority set forth in EO 2020-243, KRS 157.360(2), (9)-(11), (13)(a), and (16), and applicable corresponding provisions of HB 352 (2020) that allot funding using ADA; and KRS 157.370(3) are hereby suspended for the 2020-21 school year for SEEK payments that will occur during the 2021-22 school year.** The suspended statutes rely upon ADA for funding calculations, which would disadvantage school districts that implement a blended traditional and NTI instructional delivery strategy. With these statutes suspended, I will recommend an emergency administrative regulation to the KBE for adoption that sets forth the calculation of these state funding programs to school districts for the 2020-21 school year (to be paid during the 2021-22 school year). This recommended emergency administrative regulation will provide for substituting and utilizing the same attendance data selected by school districts pursuant to Senate Bill (SB) 177 (2020) for the 2019-20 school year for application to the 2020-21 school year. Suspension of these statutes, coupled with the emergency administrative regulation I will recommend to the KBE, will provide state funding predictability to school districts and prevent the loss of substantial state funding typically based on ADA.

I hope this guidance regarding the temporary suspension of KRS 158.070(9); KRS 157.360(2), (9)-(11), (13)(a), and (16) and applicable corresponding provisions of HB 352 (2020) that allot funding using ADA; and KRS 157.370(3), as set forth more fully above, is helpful to you and your students during the COVID-19 emergency situation we continue to face. I appreciate your continued leadership and service to your students and communities during this unprecedented time. In the event you have questions regarding this memorandum, please contact Associate Commissioner Robin Fields Kinney at [Robin.Kinney@education.ky.gov](mailto:Robin.Kinney@education.ky.gov).

Approved Pursuant to EO 2020-243 and 2020-257:



Lieutenant Governor Jacqueline Coleman  
Secretary, Education and Workforce Development Cabinet