

Summary of Changes to 701 KAR 5:150 – Nontraditional instruction program.

Change	Reason
Section 1: Adds a definition for “Comprehensive District Improvement Plan,” revises the definition of “instructional delivery method,” and renumbers throughout (P. 1, lines 20-23; p. 2, lines 1-12).	Adds a definition for “Comprehensive District Improvement Plan,” wherein a district’s nontraditional instruction (NTI) plan shall be annually incorporated for consideration by the Commissioner pursuant to KRS 158.070 and Section 2 of this regulation. Also includes clarifying language that the “instructional delivery method” refers to the technique(s) used regardless of a student’s physical location.
Section 2: Strikes language incorporating the “Nontraditional Instruction Program Initial Application” and, in its place, incorporates the nontraditional plan within the Comprehensive District Improvement Plan (CDIP). Sets forth the requirements of the nontraditional plan to be incorporated within the CDIP (P. 2, lines 13-23; p. 3, lines 1-23; P.4, lines 1-23; p. 5, lines 1-22; and, p. 6, lines 1-16).	Statewide utilization of nontraditional instruction at the end of the 2019-2020 school year over a period of six to nine weeks, depending on each district’s remaining instructional days, demonstrated a need to revisit the NTI program, including the conditions and procedures used for districts to be approved for participation, so as to promote a continuation of learning when in-person instruction may not be feasible and to support continuous improvement. Accordingly, this section of the regulation requires a district’s NTI plan be annually incorporated into the CDIP, which supports districts in designing and implementing a plan for a continuation of learning during times when nontraditional instruction may need to be implemented, either in the short-term or long-term, in order to prevent a loss of learning.
Section 3: Deletes the entire section on the “Renewal Application Process,” including the incorporated “Nontraditional Instruction Program Renewal Application” (P. 6, lines 17-21); p. 7, lines 1-23; and, p. 8, lines 1-13).	This section is amended to align with Section 2, which has been revised to require all districts wishing to participate in the NTI program to annually incorporate the NTI plan within the CDIP and does not distinguish between “initial” and “renewal” applicants.
Section 4: Renumbers as “Section 3,” removes reference to the specific number of NTI days provided in KRS 158.070, and renumbers throughout as needed (P. 8, lines 14 as well as 19-21 and p. 9, line 3).	It is duplicative, unnecessary and contrary to KRS Chapter 13A to include in this regulation the maximum number of NTI days permissible under state law. Specifically, KRS 13A.120 prohibits the promulgation of administrative regulations “when a statute prescribes the same or similar procedure for the matter regulated,” and KRS 158.070 currently specifies that “the commissioner of education may grant up to the equivalent of ten (10) student attendance days for school districts that have a nontraditional instruction plan approved.” Removal of this language also promotes longevity of the regulation in the event the maximum number of NTI days allowed by statute were to change in the future.

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<p>Section 5: Renumbers as “Section 4,” removes reference to the “Nontraditional Instruction Program Application” as well as terms of approval, and strikes language mandating a district that has its NTI status revoked wait at least one calendar year before reapplying for program participation (P. 9, lines 12-23; p. 10, line 1; p. 11, lines 17-21; and, p. 12, lines 10-12).</p>	<p>Changes in this section align with amendments to Sections 2 and 3, which have been revised to require all districts wishing to participate in the NTI program to annually incorporate the NTI plan within the CDIP and discontinue usage of the “Nontraditional Instruction Program Initial Application” and “Nontraditional Instruction Program Renewal Application.” These changes do not distinguish between “initial” and “renewal” applicants.</p> <p>Further, removal of the one-year waiting period for a district to reapply to participate in NTI following revocation of NTI participation status ensures all districts are and remain eligible to seek the Commissioner’s approval of a plan for a continuation of learning to occur during times when nontraditional instruction may need to be implemented, either in the short-term or long-term, in order to prevent a loss of learning.</p>
<p>Section 6: Deletes the entire section on “Incorporation by Reference,” which details the documents incorporated within the regulation (P. 12, lines 13-19).</p>	<p>Striking this section is necessary to align with changes in Section 2 as well as the deletion of Section 3, both of which sections have been revised to implement the annual incorporation of the NTI plan within the CDIP and discontinue usage of the “Nontraditional Instruction Program Initial Application” and “Nontraditional Instruction Program Renewal Application.”</p>