

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Approval of Emergency Regulation 702 KAR 1:190, District Employee Emergency Leave

Date: August 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 and approve the emergency regulation 702 KAR 1:190 which would permit local school districts the ability to provide additional emergency leave for school district employees to use for Novel Coronavirus (COVID-19) related employee leave.

COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends approval of 702 KAR 1:190 to permit local school districts the ability to provide additional emergency leave for school district employees to use for COVID-19 related employee leave. The promulgation of this emergency regulation is necessary to meet an imminent threat to public health, safety or welfare; and to protect human health.

APPLICABLE STATUTE OR REGULATION:

KRS 161.152, 160.290, 156.070, 156.160. 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 (EO) 2020-215 declaring a State of Emergency created by 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 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 (KDPH). 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. As local school districts prepare for reopening of the 2020-2021 school year, additional flexibility measures are needed for local school district operations.

Summary of Issue:

Currently, district boards of education may allow each person employed as a full-time employee in the public schools, emergency leave not to exceed three days each year. In addition to this

permissible leave time, for the 2020-2021 school year this emergency regulation would allow a district board of education to grant additional COVID-19 emergency leave. This additional emergency leave may be granted to each person employed as a full-time or part-time employee in the public schools for leave related to the COVID-19 public health emergency as determined by the local school districts, without loss of salary to the employee and without affecting his or her sick leave. Similar flexibility was authorized by the Kentucky General Assembly through Senate Bill (SB) 177 (2020). SB 177 expired at the end of the 2019-2020 school year.

This ability for districts to grant additional leave is proposed in response to requests from local school district employees concerned over the possibility of repeated isolation or quarantine requirements due to the spread of COVID-19. While leave time already is available under various provisions of the federal Families First Coronavirus Act, state law and local board action for district employees, this additional flexibility will permit local districts to respond to individual challenges in their districts which may require additional days for impacted staff. This flexibility assists not only the employees directly affected by isolation or quarantine, or other COVID-19 related issues, but also encourages district staff to make necessary decisions to stay at home until they satisfy health directives.

Budget Impact:

There is no impact on KDE funds related to the approval of the emergency amendment to 702 KAR 1:190. The proposed regulation amendment provides that any additional emergency leave granted by local school districts would be paid leave for employees; accordingly, this would have a budget impact to local districts who choose to provide additional emergency leave.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

Local school district staff have requested this as needed flexibility during the 2020-2021 school year. The Kentucky School Boards Association and Local Superintendents Advisory Council (LSAC) reviewed this emergency administrative regulation. Feedback from the LSAC will be expected by the August board meeting.

CONTACT PERSON(S):

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Category:	<input type="checkbox"/> District Innovation	<input checked="" 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 type="checkbox"/> Accountability Reporting