

STATEMENT OF EMERGENCY

702 KAR 1:190E

Pursuant to KRS 13A.190(1)(a) and KRS 39A.180, the promulgation of this emergency regulation is necessary to meet an imminent threat to public health, safety, or welfare. On March 6, 2020, Governor Andy Beshear signed Executive Order 2020-215 declaring a State of Emergency created by the Novel Coronavirus (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. Unfortunately, the COVID-19 emergency will continue to impact school districts during the 2020-2021 school year. While a variety of leave options exist for school district staff who become exposed to COVID-19 and subject to quarantine and medical treatment, these leave options may be inadequate based on the spread of COVID-19 in local communities, or expire prior to the end of the 2020-2021 school year. It is imperative that no district employee who is subject to quarantine or treatment for COVID-19 be compelled to return to work due to a lack of leave time, exposing others to the virus, until they are cleared for return by a medical professional. This emergency administrative regulation is being filed to allow school districts the ability to provide additional emergency leave for school district employees to use for COVID-19 related employee leave. This emergency regulation is temporary in nature and will expire as provided for in 13A.190. An ordinary administrative regulation would not timely address the need for school district flexibility to grant additional emergency leave for the 2020-2021 school year. The agency may, to the extent necessary, file another emergency regulation upon expiration.

Andy Beshear, Governor

Jacqueline Coleman
Secretary, Education and Workforce Development Cabinet

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (New Emergency Administrative Regulation)

5 702 KAR 1:190E. District Employee Emergency Leave.

6 RELATES TO: KRS 161.152, 160.290.

7 STATUTORY AUTHORITY: KRS 156.070, 156.160.

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of
9 Education to promulgate administrative regulation establishing standards which school districts
10 shall meet in student, program, service, and operational performance, including regulations for the
11 protection of the physical welfare and safety of public school children, as well as the pay of
12 teachers during absence because of sickness or quarantine. KRS 156.070 provides the Kentucky
13 Board of Education with the management and control of the common schools and all programs
14 operated in those schools. KRS 160.291 authorizes fringe benefit payments by local boards of
15 education which are deemed to be for services rendered for the benefit of the common schools.
16 The governor issued Executive Order 2020-15 declaring a state-wide emergency due to the
17 COVID-19 pandemic. KRS 39A.180 authorizes the promulgation of administrative regulations to
18 effectuate the governor's Executive Order 2020-243 temporarily suspending KRS 161.152(2).
19 This administrative regulation establishes a school district's authority to grant paid emergency
20 leave to employees in response to the COVID-19 emergency. This emergency regulation is
21 necessary to address the imminent threat to public health, safety, and welfare; and to protect human

1 health; while safely and efficiently operating public schools during the 2020-21 school year in
2 light of the COVID-19 public health emergency.

3 Section 1. Standard Emergency Leave. (1) Each district board of education may allow each person
4 employed as a full-time employee in the public schools not to exceed three (3) emergency days for
5 the 2020-2021 school year for reasons designated by the district board of education, without loss
6 of salary to the employee and without affecting his or her sick leave.

7 Section 2. Additional COVID-19 Emergency Leave. (1) Each district board of education may
8 allow each person employed as a full-time or part-time employee in the public schools emergency
9 days for the 2020-2021 school year for leave related to the COVID-19 public health emergency as
10 determined by the local school district, without loss of salary to the employee and without affecting
11 his or her sick leave.

12 (2) Leave granted pursuant to this section shall be determined based on local school board action,
13 resolution, or procedures enacted by local school districts. Such action, resolution, or procedures
14 shall include, but need not be limited to:

15 (a) The number of emergency days authorized for use by employees;

16 (b) COVID-19 related reasons for authorization of such leave during the current state of
17 emergency; and

18 (c) How leave is credited to and used by employees determined eligible for emergency leave under
19 this section.

20 (3) Leave granted pursuant to this section shall not accumulate or carry over beyond the 2020-
21 2021 school year and shall not be transferrable to any other classification of paid leave established
22 by KRS 161.155, KRS 161.154, or local school district policy.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

(Date)

Kevin C. Brown
Interim Commissioner of Education

(Date)

Lu Young, Chair
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on XXX, 2020, at XX in the State Board Room, 5th Floor, 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through XXX. CONTACT PERSON: Todd G. Allen, Interim General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.