

## KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

**Topic:** 701 KAR 5:150, Nontraditional Instruction Program (First Reading)

**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 proposed amendments to 701 KAR 5:150, Nontraditional instruction program. This regulation fulfills KRS 158.070(10), which requires the Kentucky Board of Education (KBE) to promulgate administrative regulations “to prescribe the conditions and procedures for districts to be approved for the nontraditional instruction program.”

### APPLICABLE STATUTE OR REGULATION:

KRS 156.029(7), 156.070(5), 156.160 and 158.070.

### BACKGROUND:

#### *Existing Policy:*

KRS 158.070(9) states in relevant part: “Notwithstanding any other statute, each school term shall include no less than the equivalent of the student instructional year in subsection (1)(f) of this section, or a variable student instructional year in subsection (1)(h) of this section, except 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 by the commissioner of education on days when the school district is closed for health or safety reasons. The district’s plan shall include how the nontraditional instruction process shall be a continuation of learning that is occurring on regular student attendance days. Instructional delivery methods, including the use of technology, shall be clearly delineated in the plan.”

Further, KRS 158.070(10) requires the KBE to “promulgate administrative regulations...to prescribe the conditions and procedures for districts to be approved” and, in accordance with this provision, the KBE has adopted 701 KAR 5:150 to “specify:

- (a) The application, plan review, approval, and amendment process;
- (b) Reporting requirements for districts approved for the program, which may include but are not limited to examples of student work, lesson plans, teacher work logs, and student and teacher participation on nontraditional instruction days. Documentation to support the use of nontraditional instruction days shall include clear evidence of learning continuation;
- (c) Timelines for initial approval as a nontraditional instruction district, length of approval, the renewal process, and ongoing evaluative procedures required of the district;
- (d) Reporting and oversight responsibilities of the district and the Kentucky Department

of Education, including the documentation required to show clear evidence of learning continuation during nontraditional instruction days; and  
(e) Other components deemed necessary to implement this section.”

*Summary of Issue:*

The nontraditional instruction (NTI) program began as a pilot in 2011 and became a statewide program during the 2014-2015 school year. Prior to the 2019-2020 school year, Kentucky school districts saved over 1,500 instructional days using NTI, including 399 instructional days saved during the 2018-2019 school year alone.

On March 6, 2020, Governor Andy Beshear declared, pursuant to KRS Chapter 39A, a State of Emergency and directed “the issuance of appropriate state active duty orders for the necessary officers, troops, personnel, equipment, including the resources of the Kentucky National Guard and other logistical support necessary for an immediate response to the novel coronavirus (COVID-19) emergency in the Commonwealth.” Thereafter, all 172 Kentucky school districts utilized the NTI program, 89 of which were approved to do so on an emergency basis pursuant to a waiver issued by the KBE in March 2020, to complete the 2019-2020 school year using remote learning. During the State of Emergency, school districts statewide were able to reduce learning loss by collectively providing 6,240 days of NTI.

Statewide utilization of NTI 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 amended regulation, which requires a district’s NTI plan be annually incorporated into the Comprehensive District Improvement Plan, supports districts in designing and implementing a plan for a continuation of learning during times when NTI may need to be implemented, either in the short-term or long-term, in order to prevent a loss of learning.

*Budget Impact:*

There is no anticipated budget impact related to the amendment of 701 KAR 5:150.

**GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:**

The Local Superintendents Advisory Council (LSAC) will review this regulation at its meeting on July 28, 2020. Feedback received at that meeting will be shared with the KBE prior to the August meeting.

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**Interim Commissioner of Education**

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