

STATEMENT OF EMERGENCY

902 KAR 2:220E

This emergency administrative regulation is being promulgated to establish actions that the Department for Public Health may take in response to a declared national or state emergency. Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) (the virus that causes COVID-19) is a highly infectious virus that is communicable to both students and school personnel. In order to minimize the spread of this virus in the school setting, the Cabinet for Health and Family Services is promulgating this emergency administrative regulation to:

1. Ensure parents, legal guardians, or other persons or agencies responsible for a student are aware of the requirement to notify the student's school of a diagnosed medical condition that may threaten the safety of the student or others in the school; and
2. Establish requirements for school notification to the department of the number of students and school personnel reporting a positive diagnosis of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) (the virus that causes COVID-19).

In accordance with KRS 158.160, this emergency administrative regulation is needed for a local school district superintendent or private school official to make an informed decision regarding the exclusion of a student or school personnel who has reported a diagnosis of COVID-19, which has a reasonable probability for transmission in the school setting, and for a local board of education to determine the presence of a dangerous epidemic in the district. Accurate data must be available in real time. The data elements reported to the department will be posted publicly, which will allow a parent, legal guardian, or other person or agency responsible for a student to make an informed decision regarding safety and education of the student. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)1. and 4. to meet an imminent threat to public health and to protect human health.

This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

A handwritten signature in blue ink, appearing to read "Andy Beshear", written over a horizontal line.

Andy Beshear, Governor

A handwritten signature in blue ink, appearing to read "Eric Friedlander", written over a horizontal line.

Eric Friedlander, Secretary
Cabinet for Health and Family Services

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Public Health

Division of Epidemiology and Health Planning

(New Emergency Administrative Regulation)

902 KAR 2:220E. School notification standards related to COVID-19.

RELATES TO: KRS 158.160, 214.010, 214.020

**STATUTORY AUTHORITY: KRS 158.160(1), 194A.050(1), 211.025,
211.180(1)(e), 214.020**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.160(1) authorizes the Cabinet for Health and Family Services to promulgate an administrative regulation to define medical conditions that threaten the safety of students or others in a school setting. KRS 211.180(1)(e) authorizes the cabinet to formulate, promote, establish, and execute policies, plans, and comprehensive programs relating to all matters of public health, including the protection and improvement of the health of infants, preschool, and school-age children. This administrative regulation establishes the school notification standards for reporting students and school personnel diagnosed with Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) (the virus that causes COVID-19).

Section 1. Definitions. (1) "COVID-19 exposure" means a high-risk exposure as determined by the local health department having jurisdiction after consultation with the school, the exposed person, or the student's parent, legal guardian, or other person or agency responsible for the student.

1 (2) "Instructional style" means the primary method of learning utilized by the school
2 and includes in-person only, virtual only, or a hybrid of in-person and virtual.

3 (3) "Reported COVID-19 positive" means the school has received a report from:

4 (a) A parent, legal guardian, or other person or agency responsible for a student
5 attending the school that the student has tested positive for COVID-19; or

6 (b) School personnel that have tested positive for COVID-19.

7 Section 2. School Notification Standards. (1) Each public or private elementary or
8 secondary school shall provide notice to a parent, legal guardian, or other person or
9 agency responsible for a student that, in accordance with KRS 158.160:

10 (a) The individual responsible for a student shall notify the student's school if the
11 student has any medical condition that threatens the safety of the student or others in the
12 school; and

13 (b) Notification shall be made within twenty-four (24) hours following the positive
14 diagnosis of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) (the virus
15 that causes COVID-19) in the method determined by the school.

16 (2) Each public or private elementary or secondary school shall submit the
17 information required by this subsection to the Kentucky Department for Public Health as
18 required by subsections (3) and (4) of this section.

19 (a) No later than September 28, 2020, each school shall submit an initial data
20 submission, which shall include for the preceding twenty-four (24) hours:

21 1. The total number of reported COVID-19 positive students;

22 2. The total number of reported COVID-19 positive school personnel;

1 3. The total number of students quarantined for COVID-19 exposure related to
2 school activities;

3 4. The total number of school personnel quarantined for COVID-19 exposure
4 related to school activities; and

5 5. The instructional style of the school on the date of data submission.

6 (b) Following the initial data submission, each public or private elementary or
7 secondary school shall submit:

8 1. The total number of new reported COVID-19 positive students since the last
9 data submission;

10 2. The total number of new reported COVID-19 positive school personnel since the
11 last data submission;

12 3. The total number of new students quarantined for COVID-19 exposure related
13 to school activities since the last data submission;

14 4. The total number of new school personnel quarantined for COVID-19 exposure
15 related to school activities since the last data submission; and

16 5. The instructional style of the school on the date of data submission.

17 (3) Each school shall report the data elements required by subsection (2) of this
18 section:

19 (a) Each day the school is in session, Monday through Friday, even if the data
20 element is zero; and

21 (b) Regardless of instructional style utilized on the day of data submission.

22 (4) The report shall be submitted in two (2) steps as established in this subsection.

1 (a) The school reporting official shall use the electronic reporting system provided
2 by the Kentucky Department for Public Health to submit the initial and daily information
3 required by subsection (2) of this section.

4 (b) If a public or private elementary or secondary school reports a data element
5 with a value greater than zero for new reported COVID-19 students or school personnel,
6 the school reporting official shall contact the local health department having jurisdiction
7 and provide the following for each new reported COVID-19 student or school personnel:

8 1. Name;

9 2. Address;

10 3. Date of birth;

11 4. Gender; and

12 5.a. If the information is for school personnel, the person's contact telephone
13 number; or

14 b. If the information is for a student, the name and contact telephone number of
15 the parent, legal guardian, or other person or agency responsible for the student.

16 (5) The local health department having jurisdiction shall provide public health
17 guidance necessary to:

18 (a) Minimize the spread of infection within the school; and

19 (b) Promote the health, safety, and welfare of students and personnel.

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REVIEWED:

 9/14/2020

Steven J. Stack, MD, MBA

Date

Commissioner, Department for Public Health

APPROVED:

 9/14/2020

Eric C. Friedlander

Date

Secretary, Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 902 KAR 2:220E

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Donna Little, (502) 564-6746, CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the school notification standards for reporting students diagnosed with Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) (the virus that causes COVID-19).

(b) The necessity of this administrative regulation: In order to provide clear guidance to the Kentucky Department of Education (KDE) and local schools on the return to in person instructional methods, the Kentucky Department for Public Health (KDPH) needs adequate and timely data on the spread of COVID-19 in the school setting. This data will be made available to the public on a daily basis.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 158.160(1) authorizes the Cabinet for Health and Family Services to define by administrative regulation medical conditions that threaten the safety of students or others in a school setting. KRS 211.180(1)(e) authorizes the cabinet to formulate, promote, establish, and execute policies, plans, and comprehensive programs relating to all matters of public health, including the protection and improvement of the health of infants, preschool, and school-age children.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will provide data on the spread of COVID-19 in the school setting, which will allow the KDPH and KDE to make informed decisions when changes in instructional style need to be implemented to protect the health of students and school personnel.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation impacts KDPH; KDE; local school boards; local health departments; and approximately 1,220 public and private elementary and secondary schools; and the children that enroll in or participate at these facilities.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: All public and private elementary and secondary schools will need to submit the required data elements to KDPH on a daily basis, regardless of instructional style on the day of data submission. KDPH will make this daily report available to the general public, and may seek the support of the KDE to ensure all schools are participating in the data reporting.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): The costs associated with compliance is unknown. The reporting program will be provided to each school at no costs. Each school will need to have a staff person responsible for data submission.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, KDPH and KDE will be able to track the incidence of COVID-19 among schools and be able to provide guidance and support to schools.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no initial costs associated with this administrative regulation.

(b) On a continuing basis: There is no increase in ongoing costs associated with this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Any funding necessary to implement this administrative regulation will be from state general fund dollars.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: An increase in fees or funding is not necessary to implement the changes with this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does not contain fees.

(9) TIERING: Is tiering applied? (Explain why or why not.) Tiering is not applied. All schools will be required to report data on a daily basis.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 902 KAR 2:220E

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Donna Little, (502) 564-6746, CHFSregs@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts KDPH; KDE; local school boards; local health departments; and approximately 1,220 public and private elementary and secondary schools.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.160(1), 194A.050(1), 211.025, 211.180(1)(e), and 214.020.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation does not generate revenue.

(c) How much will it cost to administer this program for the first year? There are no costs to administer this program in the first year.

(d) How much will it cost to administer this program for subsequent years? There are no costs to administer this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: