

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amendment)

5 701 KAR 5:100. [~~Guidelines for alternative models for s~~]School-based decision making
6 guidelines.

7 RELATES TO: KRS 160.345

8 STATUTORY AUTHORITY: KRS 156.070, 160.345

9 NECESSITY, FUNCTION, AND CONFORMITY: [~~The State Board for Elementary and~~

10 ~~Secondary Education is directed by~~] KRS 160.345(7) grants the Kentucky Board of Education

11 (KBE) final authority [to review] for approval of applications for alternative models for school-

12 based decision making (SBDM). This administrative regulation establishes the application

13 process, as well as approval guidelines for alternative models for school-based decision making.

14 Additionally, the KBE is required to exempt, upon request, a school that meets the requirements

15 of KRS 160.345(5) from implementing SBDM. This administrative regulation establishes the

16 application process as well as approval guidelines for receiving a SBDM exemption pursuant to

17 KRS 160.345(5). Further, KRS 160.345(6) requires new and experienced SBDM members

18 complete professional development activities provided by the Kentucky Department of

19 Education (department) through providers that have been endorsed by the department. This

20 administrative regulation clarifies training requirements for SBDM members and prescribes the

21 process for a training provider to be endorsed by the department. Finally, KRS 160.345(6)

requires the department collect the names and addresses for each SBDM member. This administrative regulation establishes the SBDM database and associated reporting requirements.

Section 1. Definitions. (1) “Classified employee” shall have the same meaning as defined in KRS 161.011(1)(a).

(2) “Parent” shall have the same meaning as defined in KRS 160.345.

(3) “Teacher” shall have the same meaning as defined in KRS 160.345.

~~[The membership of school councils shall be maintained at the 3-2-1 ratio set forth in KRS 160.345(2) so that parental membership shall not fall below one-third (1/3) of voting members. Any representation of classified staff or of students on the school council shall either be as nonvoting members of the council or on committees advisory to the council, whichever the council itself shall decide.]~~

Section 2. Alternative Models for School-Based Decision Making. (1) On or after January 1 and prior to March 1 of each calendar year, a school choosing to develop an alternative model for school-based decision making (SBDM) pursuant to KRS 160.345(7) shall submit a completed Alternative School-Based Decision Making Application through its local board of education to the Commissioner of Education (Commissioner) for consideration by the Kentucky Board of Education (KBE).

(2) The Kentucky Department of Education (department) shall provide technical assistance, upon request, to districts prior to submission of the Alternative School-Based Decision Making Application to help ensure minimum compliance with the required components set forth in KRS 160.345(7).

1 (3) Within thirty (30) days from receipt of a completed Alternative School-Based Decision
2 Making Application, the Commissioner, or his designee, shall review and recommend the KBE
3 approve or deny the Alternative School-Based Decision Making Application.

4 (4) At the next regularly scheduled meeting of the KBE following the receipt of the
5 recommendation from the Commissioner, or his designee, pursuant to subsection (3) of this
6 Section, the KBE shall approve or deny the Alternative School-Based Decision Making
7 Application.

8 (5) Implementation of an approved Alternative School-Based Decision Making Application shall
9 begin on July 1 unless otherwise specified in the Alternative School-Based Decision Making
10 Application submitted to and approved by the KBE.

11 (6) An alternative SBDM model approved by the KBE is subject to ongoing review but shall be
12 valid until the earlier of the following occurs:

13 (a) The school implements a traditional SBDM that complies with KRS 160.345 following a
14 majority vote by the existing SBDM to do so and evidence of the council's majority vote to
15 reinstate the traditional SBDM model is communicated in writing to the department;

16 (b) The school qualifies for and is granted, where applicable, an SBDM exemption under Section
17 (3) of this administrative regulation;

18 (c) The school is identified for comprehensive support and improvement and has its SBDM
19 authority transferred to the superintendent pursuant to KRS 160.346; or

20 (d) The KBE revokes approval for the alternative SBDM model.

21 (7) The department shall maintain a record of all schools that apply for an alternative SBDM
22 model and a record of all approved alternative SBDM models.

1 (8) An Alternative School-Based Decision Making Application shall not be necessary for
2 changes to an SBDM that maintain the parent, teacher, and administrator voting membership
3 ratio prescribed in KRS 160.345. An SBDM may add one or more non-voting members upon a
4 majority vote of the existing SBDM without submission of an Alternative School-Based
5 Decision Making Application.

6 ~~[(1) If a school can demonstrate that it had in operation prior to July 13, 1990, a successful~~
7 ~~school-based decision making model composed of a different membership than specified in KRS~~
8 ~~160.345(2), it may apply to the State Board for Elementary and Secondary Education for~~
9 ~~approval of its model under KRS 160.345(7) regarding alternative models. Priority for approval~~
10 ~~of alternative models shall be given to those preexisting models which add parents in numbers~~
11 ~~sufficient to meet the 3-2-1 statutory configuration.~~

12 ~~(2) To demonstrate that a school had a formal, operational, decision-making entity in place~~
13 ~~before July 13, 1990, it shall submit written evidence of decisions and actions taken by the~~
14 ~~decision-making body and implemented in the school. Groups that were informal and advisory in~~
15 ~~that they were dealing with peripheral issues not covered in the Kentucky Education Reform Act~~
16 ~~of 1990 shall not qualify for alternative model approval.~~

17 ~~(3) In the case of requests for approval of alternative models which were in operation prior to~~
18 ~~July 13, 1990, the school shall show evidence that the model in existence has been subjected to~~
19 ~~review, evaluation, and recommendation regarding its continuation by representatives of the~~
20 ~~parents, students, certified personnel, and the administrators of the school, and that two-thirds~~
21 ~~(2/3) of the faculty (all certified members of the school including any itinerant teacher assigned~~
22 ~~to the school for payroll purposes) have agreed to apply for the continued use of that model for~~
23 ~~school-based decision making.]~~

1 Section 3. Exemptions from School-Based Decision Making. (1) On or after January 1 and prior
2 to March 1 of each calendar year, a school required to implement school-based decision making
3 pursuant to KRS 160.345 may seek an SBDM exemption by submitting a written request to the
4 Commissioner for consideration by the KBE.

5 (2) The department shall provide technical assistance, upon request, to districts prior to
6 submission of the written request to help ensure minimum compliance with the required
7 components set forth in KRS 160.345(5).

8 (3) Within thirty (30) days from receipt of the written request, the Commissioner, or his
9 designee, shall review and verify the school meets the requirements set forth in KRS 160.345(5).

10 (4) Once the Commissioner, or his designee, has verified the school meets the requirements set
11 forth in KRS 160.345(5), the school's written request shall be submitted to the KBE for final
12 approval pursuant to KRS 160.345(5). If the Commissioner, or his designee, are unable to verify
13 the school has met the reequipments for exemption set forth in KRS 160.345(5), the
14 Commissioner shall recommend that the KBE deny the exemption request.

15 (5) Implementation of an approved school-based decision making exemption shall begin on July
16 1 unless otherwise specified in the written request submitted to and approved by the KBE.

17 (6) An SBDM exemption approved by the KBE shall be valid for one (1) school year; however, a
18 school may annually re-apply for an SBDM exemption if it meets the requirements set forth in
19 KRS 160.345(5).

20 (7) The department shall maintain a record of all schools that apply for an SBDM exemption and
21 a record of all approved SBDM exemptions.

22 ~~[Each application for alternative models from schools which began school-based decision~~
23 ~~making after July 13, 1990, shall be based on the 3-2-1 statutory configuration so that parental~~

~~membership shall not fall below one third (1/3) of voting members, shall have no more than two (2) year terms of office, and shall show any student or classified staff representation as nonvoting or advisory. The other requests shall be approved or rejected after a case by case review by the board and recommendation by the Department of Education.]~~

Section 4. Training for School-Based Decision Making Members. (1) SBDM members shall satisfy training required under KRS 160.345 by completing department provided training or training provided by individuals that have been endorsed by the department to provide such training.

(2) To be endorsed by the department to provide SBDM member training, an individual shall successfully complete a training program, as required by the department, on an annual basis.

(3) The department shall maintain a record of individuals that it has endorsed to provide training to SBDM members.

(4) Individuals the department has endorsed to provide training to SBDM members shall use training modules developed or approved by the department.

(5) If an individual the department has endorsed to provide training to SBDM members would like to use non-department training modules to meet the requirements of KRS 160.345(6), such training modules shall be approved in advance by the department.

(6) To have a training module approved by the department, an individual or entity shall submit the following in writing to the department for review:

(a) The title of module;

(b) The number of training hours the module provides;

(c) The intended audience of the module;

1 (d) An overview of the module, including topics addressed and anticipated outcomes for
2 attendees; and

3 (e) Other evidence deemed necessary by the department.

4 (7) The department shall maintain a record of non-department trainings that have been approved
5 to meet the requirements of KRS 160.345(6).

6 ~~[KRS 160.345(7) stipulates that the school shall submit its application for an alternative model~~
7 ~~"through" the local board to the Commissioner of Education and the State Board for Elementary~~
8 ~~and Secondary Education for approval. The state board interprets that provision to mean that the~~
9 ~~local board shall transmit the request to the state as quickly as possible. In exercising this~~
10 ~~function, the local board is serving as transmittal agent and shall not have the right to delay or~~
11 ~~deny a school's request for an alternative model.]~~

12 Section 5. Database of School-Based Decision Making Members. (1) By November 1 of each
13 year, each school shall provide, in a format acceptable to the department, the following
14 information to the department:

15 (a) The names and addresses of each SBDM member; and

16 (b) Verification that each SBDM member has completed the training required by KRS
17 160.345(6).

18 (2) The department shall maintain a database of all SBDM members, including training
19 verifications for SBDM members.

20 ~~All alternative models approved by the state board pursuant to any provision contained in this~~
21 ~~administrative regulation shall be valid for an indefinite period, subject to continuous review by~~
22 ~~the state board. This approval for an indefinite period, subject to continuous review by the state~~

board, shall apply to all alternative models approved prior to and subsequent to the date of enactment of this administrative regulation.]

Section 6. Incorporation by Reference. (1) “Alternative School-Based Decision Making Application,” February 2021 is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Education, Office of Continuous Improvement and Support, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [The Kentucky Department of Education shall keep records of all schools which apply for, and all schools which are granted, an alternative model for school-based decision making.]

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)

Jason E. Glass, Ed.D.
Commissioner of Education

(Date)

Lu Young, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on ____, 2021, at _____ a.m./p.m. 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 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 _____.

CONTACT PERSON: Todd Allen, 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 701 KAR 5:100
Contact Person: Todd G. Allen, Todd.Allen@education.ky.gov
Phone Number: 502-564-4474

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the application process as well as approval guidelines for alternative models for school-based decision making, as well as approval guidelines for receiving a SBDM exemption pursuant to KRS 160.345(5). This administrative regulation clarifies training requirements for SBDM members and prescribes the process for a training provider to be endorsed by the department. This administrative regulation establishes the SBDM database and associated reporting requirements.

(b) The necessity of this administrative regulation: The KBE is required to exempt, upon request, a school that meets the requirements of KRS 160.345(5) from implementing SBDM. Further, KRS 160.345(6) requires new and experienced SBDM members complete professional development activities provided by the Kentucky Department of Education (department) through providers that have been endorsed by the department. Finally, KRS 160.345(6) requires the department collect the names and addresses for each SBDM member. Amendments to 701 KAR 5:100 are necessary to align the regulation with KRS 160.345 and provides procedures for the implementation of these statutory requirements.

(c) How this administrative regulation conforms to the content of the authorizing statute: This amended regulation conforms to state statute by establishing an application process as well as approval guidelines for alternative models for school-based decision making. This administrative regulation establishes the application process as well as approval guidelines for receiving a SBDM exemption pursuant to KRS 160.345(5). This administrative regulation clarifies training requirements for SBDM members and prescribes the process for a training provider to be endorsed by the department. This administrative regulation establishes the SBDM database and associated reporting requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the application process as well as approval guidelines for receiving a SBDM exemption pursuant to KRS 160.345(5). This administrative regulation clarifies training requirements for SBDM members and prescribes the process for a training provider to be endorsed by the department. This administrative regulation establishes the SBDM database and associated reporting requirements.

(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: The amendments to this regulation change the existing regulation by incorporating the application for alternative SBDM models into the regulation. The amendment also provides clarifications related to timelines and the inclusion of non-voting members on an SBDM council.

(b) The necessity of the amendment to this administrative regulation: Amendments to 701 KAR 5:100 are necessary to further clarify the requirements of KRS 160.345.

(c) How the amendment conforms to the content of the authorizing statute: This amended regulation conforms to state statute by establishing an application process as well as approval guidelines for alternative models for school-based decision making. This administrative regulation establishes the application process as well as approval guidelines for receiving a SBDM exemption pursuant to KRS 160.345(5). This administrative regulation clarifies training requirements for SBDM members and prescribes the process for a training provider to be endorsed by the department. This administrative regulation establishes the SBDM database and associated reporting requirements

(d) How the amendment will assist in the effective administration of the statutes: This amended regulation assists in the effective administration of the statute by establishing an application process as well as approval guidelines for alternative models for school-based decision making. This administrative regulation establishes the application process as well as approval guidelines for receiving a SBDM exemption pursuant to KRS 160.345(5). This administrative regulation clarifies training requirements for SBDM members and prescribes the process for a training provider to be endorsed by the department. This administrative regulation establishes the SBDM database and associated reporting requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local education agencies (LEAs), school-based decision making councils, the KBE, and the KDE will be impacted by this regulation.

(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 question (3) will have to take to comply with this administrative regulation or amendment: LEAs with schools having school-based decision making authority and an interest in SBDM alternative model and/or SBDM exemption must comply with the process established within the regulation, pursuant to KRS 160.345. Entities seeking placement on the KDE's endorsed SBDM trainer list must comply with Section 4 of this regulation. The KBE is required to annually report SBDM council members.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The KBE and the KDE may incur unknown costs in the form of additional staff time and dedicated resources with regard to the approval of an alternative model application and/or written request for SBDM exemption, which the KBE is required to approve pursuant to KRS 160.345(5) and KRS 160.345(7). State funding is used for the implementation and enforcement of the obligations established in KRS 160.345.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

This amended regulation conforms to state statute, KRS 160.345, and conformance with authorizing statutes ensures clarity and legal compliance for the entities identified in question (3).

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

(a) Initially: The KBE and the KDE may incur minimal costs in the form of additional staff time and dedicated resources with regard to the approval of an alternative model application and/or written request for SBDM exemption, which the KBE is required to approve pursuant to KRS 160.345(5) and KRS 160.345(7). State funding is used for the implementation and enforcement of the obligations established in KRS 160.345.

(b) On a continuing basis: The KBE and the KDE may incur minimal costs in the form of additional staff time and dedicated resources with regard to the approval of an alternative model application and/or written request for SBDM exemption, which the KBE is required to approve pursuant to KRS 160.345(5) and KRS 160.345(7). State funding is used for the implementation and enforcement of the obligations established in KRS 160.345.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State funding is used for the implementation and enforcement of the obligations established in KRS 160.345.

(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 anticipated to be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied because the amendment to this administrative regulation applies equally to individuals, businesses, organizations, or state and local governments affected by this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 701 KAR 5:100
Contact Person: Todd G. Allen, Todd.Allen@education.ky.gov
Phone Number: 502-564-4474

(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? Local education agencies (LEAs), the Kentucky Board of Education (KBE), and the Kentucky Department of Education (KDE).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6455, 160.345 160.346

(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. For the first full year, there is no anticipated budget impact related to the amendment of this administrative regulation for LEAs; however, the KBE and the KDE may incur minimal costs in the form of additional staff time and dedicated resources with regard to the approval of an alternative model application and/or written request for SBDM exemption, which the KBE is required to approve pursuant to KRS 160.345(5) and KRS 160.345(7).

(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? N/A

(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? N/A

(c) How much will it cost to administer this program for the first year? The KBE and the KDE may incur minimal costs in the form of additional staff time and dedicated resources with regard to the approval of an alternative model application and/or written request for SBDM exemption, which the KBE is required to approve pursuant to KRS 160.345(5) and KRS 160.345(7).

(d) How much will it cost to administer this program for subsequent years? The KBE and the KDE may incur unknown costs in subsequent years in the form of additional staff time and dedicated resources with regard to the approval of an alternative model application and/or written request for SBDM exemption, which the KBE is required to approve pursuant to KRS 160.345(5) and KRS 160.345(7).

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

Revenues (+/-): N/A

Expenditures (+/-): NA

Other Explanation: N/A

Summary Page - Incorporation by Reference

701 KAR 5:100. School-based decision making guidelines

The following document is incorporated by reference:

- (1) “Alternative School-Based Decision Making Application,” February 2021. This document incorporated by reference consists of four (4) pages and is the form a school shall use to seek approval from the Kentucky Board of Education (KBE) of an alternative model for school-based decision making (SBDM) pursuant to KRS 160.345(7).