

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Harrison County School District Request for Approval of a Waiver from 702 KAR 4:180 and Approval of New District Facility Plan

Date: August 2021

Action Requested: ☐ Review ☐ Action/Consent ☒ Action/Discussion

Held In: ☒ Full Board ☐ Curriculum, Instruction and Assessment ☐ Operations

SUMMARY OF ISSUE BEFORE THE BOARD:

Pursuant to KRS 156.160(2), to take action on the requested waiver of 702 KAR 4:180, the Kentucky School Facilities Planning Manual and the approval of the Harrison County District Facility Plan (DFP).

COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve the waiver of the regulation and approval of the DFP.

APPLICABLE STATUTE OR REGULATION:

KRS 156.160, 702 KAR 4:180, Implementation guidelines – Kentucky School Facilities Planning Manual

BACKGROUND:

Existing Policy:

KRS 156.160(2) permits the KBE to waive certain regulations at the request of a local board of education. The KBE may approve waiver requests when the school district demonstrates circumstances including but not limited to the following: an alternative approach will achieve the same result required by the administrative regulation; implementation of the regulation will cause a hardship on the district or school or jeopardize the continuation or development of programs; or there is a finding of good cause for the waiver. The KBE cannot waive regulations related to health and safety, civil rights, regulations required by federal law, and regulations related to the measurement of performance outcomes and determination of successful districts or schools. Waivers granted under KRS 156.160(2) are subject to revocation, should the KBE determine that the district failed to meet the intent of the waiver.

702 KAR 4:180 requires that each district develop a local DFP at the completion of a four-year cycle or eight-year cycle (maximum) if the district applied for, and was granted, an extension. The regulation incorporates by reference the *Kentucky School Facilities Planning Manual* (Planning Manual). The manual sets forth the process and requirements for districts to create a DFP.

The facilities planning process results in a DFP that contains an assessment of the school district's attributes and operations including the district profile, demographic information, facility conditions and finances (cost of delivery of services). Local school districts are required to select a Local Planning Commission (LPC) to develop a DFP outlining capital construction priorities.

Information reviewed in developing the DFP provides the LPC with a comprehensive view of program and facility needs required to provide an equitable educational opportunity. KDE staff provides the process to be undertaken by the district in an orientation package. Information for KDE review then is developed by the LPC and its consultants.

The LPC, by virtue of its makeup, encourages both community involvement and diversity of ideas. The LPC recommends a DFP to the local board. If the local board does not approve the DFP, it goes back to the LPC for further refinement. However, a DFP submitted for approval by the KBE is the final decision of the local board of education and may or may not reflect the determinations of the LPC.

Summary of the Issues:

Harrison County School District's proposed DFP was recommended by the LPC and approved by the local board of education. In developing its plan, the district found that the available 2016 enrollment projections (based on 2010 Census data) did not accurately reflect the growth the county and district were actually experiencing. Enrollment projections and population trends are derived from data from the University of Louisville's Kentucky State Data Center (KSDC). KSDC serves as Kentucky's official clearinghouse for Census data. It is important to note that 2020 Census data has been collected, however, it has not been released to date.

In order to supplement the KSDC data, the district contacted Dr. Matthew H. Ruther, Director, Urban Studies Institute/KSDC at the University of Louisville. Dr. Ruther reviewed available additional data and agreed with the district. He found in 2015 the county was exhibiting population decline (since 2010), while in 2020, the county was exhibiting population growth (since 2015). Harrison County's fertility rate was higher now than in 2015, and notably higher than the rest of the state. The county's net migration rates were higher in 2015-2020 than they were 2010-2015. In fact, they were negative (overall) in the earlier period and are now positive. Dr. Ruther stated, "Basically, new (but preliminary) projections for Harrison County's school-age population show growth in these age groups going forward through 2040. This is quite different than the 2016 projections, which showed future population decline within the county."

The ability for a district to include additional demographic data is contemplated by the Planning Manual incorporated by reference into 702 KAR 4:180. In Section 103.4.1(5)(b), it states:

This projected enrollment will be used to determine the need for changes in the district's facilities. These projections shall be made using the population information provided by the Kentucky Data Center at the University of Louisville. Adjustments to this information may be considered based on information provided by a local district based on a bona fide demographic data source.

Even though adjustments using bona fide additional demographic data are permissible under the regulation, such data is different than the typical KSDC data. The Planning Manual requires enrollment projections 6 years beyond the date of the DFP. The proposed DFP includes enrollment projections that exceed the six year threshold. The six year enrollment projection is also included in the manual's provisions relating to the construction of a new facility. The DFP includes the district's plan to construct a new high school. Finally, the DFP uses current enrollment rather than the end of year enrollment. The use of additional data impacts various parts of the planning process and, in this case, necessitates waiver of the regulation.

For all the reasons stated herein, the Commissioner recommends the KBE approve the Harrison County Board of Education's Request for Waiver of 702 KAR 4:180 and approve the DFP as recommended by the LPC and ratified by the local board.

Budget Impact:

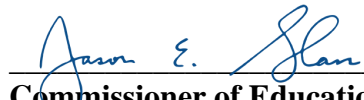
While there is no impact on KDE funds related to the approval of the new DFP, the Kentucky General Assembly historically has considered district facility needs in state appropriations, including the Support Education Excellence in Kentucky (SEEK) per-pupil Capital Outlay allotment, as well as, offers of assistance outside the KDE budget through the School Facilities Funding Commission.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

Public forums and a local public hearing were held in the school district. The plan was approved by the local planning committee and school board of the district.

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Commissioner of Education

Category:	<input type="checkbox"/> Educator Workforce Diversity	<input type="checkbox"/> Portrait of a Graduate Partnerships	<input type="checkbox"/> Racial Equity Commitment	<input type="checkbox"/> Student-Centered Accountability System	<input type="checkbox"/> Early Childhood	<input checked="" type="checkbox"/> District Support
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