

LEGAL: IN BOSTOCK V. CLAYTON COUNTY, GEORGIA, THE US SUPREME COURT HELD THAT THE TITLE VII PROHIBITION ON DISCRIMINATION ON THE BASIS OF "SEX" COVERS SEXUAL ORIENTATION OR GENDER IDENTITY.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

PERSONNEL

03.113

- CERTIFIED PERSONNEL -

Equal Employment Opportunity

NONDISCRIMINATION

As required by Title IX, KSB/KSD does not discriminate on the basis of sex regarding admission to KSB/KSD or in the educational programs or activities operated by KSB/KSD. Inquiries regarding Title IX Sexual Harassment may be referred to the KSB/KSD Title IX Coordinator (TIXC), the Assistant Secretary for Civil Rights, or both.¹

The Commissioner/Designee shall adhere to a policy of equal employment opportunity in all personnel matters. No person shall be subjected to discrimination in regard to employment, retention, promotion, demotion, transfer or dismissal because of race, color, religion, sex ([including sexual orientation or gender identity](#)), ~~sexual orientation, gender identity~~, genetic information, national or ethnic origin, pregnancy, veteran status, age, disabling condition, or limitations related to pregnancy, childbirth, or related medical conditions.²

INDIVIDUALS WITH DISABILITIES

No qualified person with a disability, as defined by law, shall, on the basis of the disability, be subject to discrimination in employment.³

KSB/KSD employment practices shall be in accordance with the state-approved procedures addressing requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

No human immunodeficiency virus (HIV) related test shall be required as a condition of hiring, promotion, or continued employment, unless the absence of HIV infection is a bona fide occupational qualification for the job in question as defined in KRS 207.135.

REASONABLE ACCOMMODATION

Employees who have a long-term or permanent disability may request the KSB/KSD supervisor to provide reasonable accommodations necessary for them to perform the essential duties of the position. Medical information obtained as part of an employee request shall be confidential.⁴

If assistive technology is deemed necessary for an employee, every effort will be made to obtain that technology in a timely fashion.

KSB/KSD shall engage in a timely, good faith and interactive process to determine reasonable accommodations for an employee's limitations related to pregnancy, childbirth, or related medical conditions. Reasonable accommodation shall be provided as required by law.

ADVISING EMPLOYEES

The Commissioner/Designee shall inform all school employees of the provisions of this policy.¹

Equal Employment Opportunity

REFERENCES:

¹34 C.F.R. § 106.8

²KRS 161.164; KRS Chapter 344; 42 U.S.C. 2000e, Civil Rights Act of 1964, Title VII

³29 U.S.C.A. 794

⁴29 U.S.C. section 1630.14

KRS 207.135

34 C.F.R. 104.3 - 104.14

42 C.F.R. 2000e-2; 42 C.F.R. 2000(k)

Americans with Disabilities Act

Kentucky Education Technology System (KETS)

Section 504 of the Rehabilitation Act of 1973

Title IX of the Education Amendments of 1972

Genetic Information Nondiscrimination Act of 2008

[Bostock v. Clayton County, Georgia 140 S.Ct. 1731 \(2020\)](#)

RELATED POLICIES:

03.133; 03.1621; 03.212; 03.2621; 05.11

LEGAL: OSHA REGULATIONS REQUIRES REPORTING CERTAIN INJURIES AND DEATHS.
FINANCIAL IMPLICATIONS: POTENTIAL FINES FOR NOT REPORTING

PERSONNEL

03.14

- CERTIFIED PERSONNEL -

Health and Safety

SAFETY

It is the intent of the KSB/KSD to provide a safe and healthful working environment for all employees. Employees shall report any conditions they believe to be unsafe to their immediate supervisor, who shall examine the situation and take appropriate action.

The KSB/KSD shall develop, maintain and implement health and safety plans in compliance with state and federal law.

HAZARD COMMUNICATION PLAN

The Principal/designee shall develop a KSB/KSD Hazard Communication Plan. The plan shall include:

1. The assignment of a KSB/KSD employee to be responsible for the implementation and coordination of the Hazard Communication Plan;
2. The inventory of all chemicals used at each school and worksite;
3. The identification of each chemical in the inventory that is covered by the OSHA Hazard Communication Standard;
4. Maintenance of a Safety Data Sheet (SDS) for each substance on the chemical inventory list for as long as the KSB/KSD uses the substance, plus thirty (30) years;
5. Labeling of all containers of each chemical identified as required by the Hazard Communication Standard;
6. The development of an employee Hazard Communication Information and Training Program; and
7. The development, implementation and maintenance of a written Hazard Communication Program.

BLOODBORNE PATHOGEN CONTROL

The Principal/designee shall develop an Exposure Control Plan to eliminate or minimize KSB/KSD occupational exposure to bloodborne pathogens. The plan shall address:

1. Identification of employees at-risk of occupational exposure and their assigned tasks and procedures which could lead to such exposure;
2. Communication of hazards to employees;
3. Vaccinations of at-risk employees for Hepatitis B at no cost to these employees;
4. Determination of universal precautions to be observed, including adequate engineering controls and housekeeping procedures;
5. Appropriate training of employees;
6. Provision of personal protective equipment including an opportunity provided annually for employees who use medical sharps in performance of their duties to identify, evaluate and select engineering and work practice controls to be implemented by the KSB/KSD, as appropriate;

Health and Safety**BLOODBORNE PATHOGEN CONTROL (CONTINUED)**

7. Maintenance of a sharps injury log;
8. Medical follow-up and counseling for employees after a work-site exposure;
9. Maintenance of confidential records of each exposure incident; and
10. A schedule for implementing all provisions required by the OSHA standard.

The Principal/designee shall review and update the Exposure Control Plan at least once each year and when needed to reflect new or modified tasks and procedures that affect occupational exposure or new or revised employee positions with occupational exposure. The review and update shall also address:

1. Changes in technology that eliminate or reduce exposure to bloodborne pathogens; and
2. Annual documentation that appropriate, commercially available and effective safer medical devices that are designed to eliminate or minimize occupational exposure have been obtained and are now in use.

LOCKOUT/TAGOUT

The Principal/designee shall develop a lockout/tagout program to eliminate or minimize the unexpected startup or release of stored energy in mechanical or electrically powered equipment. The plan shall address:

1. Assignment of a KSB/KSD employee to be responsible for implementation and coordination of the lockout/tagout program;
2. A written program consisting of energy control procedures;
3. Development, documentation and utilization of energy control procedures for the control of potentially hazardous energy when employees are engaged in servicing and maintaining equipment;
4. Periodic review of the lockout/tagout program to assure authorized employees are properly controlling unexpected startup or release of stored energy; and
5. Annual training of employees authorized to use lockout/tagout to emphasize program procedures and retraining whenever a periodic review reveals deficiencies in employee performance.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Each year, the Principal/designee shall conduct a hazard assessment to determine when and where the use of personal protective equipment (PPE) is necessary. The hazard assessment shall address:

1. Assignment of a KSB/KSD employee responsible for assessing the workplace for hazards;
2. Selection of appropriate PPE to safeguard employees from hazards that cannot be eliminated;

Health and Safety**PERSONAL PROTECTIVE EQUIPMENT (PPE) (CONTINUED)**

3. A training program to be conducted to educate employees about the need for PPE and when it must be worn;
4. Training of employees on the use and care of PPE, how to recognize deterioration and failure and the need for replacement; and
5. Requiring employees to wear designated PPE as deemed necessary by the hazard assessment.

REPORTING FATALITIES, AMPUTATIONS, HOSPITALIZATIONS, OR LOSS OF EYE

The KSB/KSD shall, within eight (8) hours, make an oral report to the Kentucky Labor Cabinet of the death of any employee, including any death resulting from a heart attack; or the hospitalization of three (3) or more employees, including any hospitalization resulting from a heart attack, which occurs in the work environment or is caused or contributed to by an event in the work environment.

The KSB/KSD shall, within seventy-two (72) hours, make an oral report to the Kentucky Labor Cabinet of an amputation suffered by an employee, an employee's loss of an eye or the hospitalization of fewer than three (3) employees, which occurs in the work environment or is caused or contributed to by an event in the work environment.²

ASBESTOS MANAGEMENT

The KSB/KSD shall conduct school inspection and re-inspection activities as required by state and federal law¹ to identify the status of asbestos. The KSB/KSD shall maintain an updated asbestos management plan that shall include, but not be limited to, applicable current and/or future inspection activities, response actions and surveillance activities and a description of steps taken to inform staff and parents about any such activities. Each school shall maintain in its administrative office an updated copy of the management plan for that school. Annual written notice of the availability of the plan shall be provided to parent, teacher, and employee organizations. In the absence of any such organizations, the KSB/KSD shall provide written notice of plan availability to parents, teachers, or employees, as applicable.

Any custodial or maintenance personnel who may work in a building with asbestos-containing building materials (ACBM) shall have a minimum of two (2) hours of asbestos awareness training. New custodial or maintenance staff who may work in the areas above shall be trained within sixty (60) days of hire. Maintenance and custodians who will be involved in activities that will involve a disturbance of ACBM shall receive an additional fourteen (14) hours of asbestos training.

Health and Safety

REFERENCES:

¹401 KAR 58:010; 40 C.F.R. Part 763

²803 KAR 2:180

Kentucky Department for Public Health

Centers for Disease Control and Prevention

Kentucky Labor Cabinet; 803 KAR 2:308; 803 KAR 2:404

OSHA 29 C.F.R. 1910

132 PPE Hazard Assessment

147 Lockout/Tagout

1001 Asbestos-ACBM

1200 Hazard Communication

1030 Bloodborne Pathogens

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FINANCIAL IMPLICATIONS: NONE ANTICIPATED

PERSONNEL

03.162

- CERTIFIED PERSONNEL -

Harassment/Discrimination

DEFINITION

Harassment/Discrimination of employees is unlawful behavior based on the race, color, national origin, age, religion, sex (including sexual orientation or gender identity), ~~sexual orientation, gender identity~~, pregnancy, veteran status, disability, or limitations related to pregnancy, childbirth, or related medical conditions of an employee involving intimidation by threats of or actual physical violence; the creation, by whatever means, of a climate of hostility or intimidation, or the use of language, conduct, or symbols in such manner as to be commonly understood to convey hatred or prejudice.

PROHIBITION

Harassment/Discrimination is prohibited at all times on school property and off school grounds during school-sponsored activities. This prohibition also applies to visitors to the school who may come into contact with employees and students. (Acts of harassment/discrimination based on sex may be committed by persons of the same or the opposite sex.)

KSB/KSD staff shall provide for a prompt and equitable resolution of complaints concerning harassment/discrimination.

DISCIPLINARY ACTION

Employees who engage in harassment/discrimination of another employee or a student on the basis of any of the areas mentioned above shall be subject to disciplinary action including, but not limited to, termination of employment.

GUIDELINES

Employees who believe they or any other employee, student, or visitor is being or has been subjected to harassment/discrimination shall, as soon as reasonably practicable, report it. In each school building, the Principal is the person responsible for receiving reports of harassment/discrimination at the building level. Otherwise, reports of harassment/discrimination may be made directly to the Commissioner/Designee. If an employee is not assigned to a particular school, a report of harassment/discrimination may be made to the employee's immediate supervisor or to the Commissioner/Designee. Additionally, if sexual discrimination or harassment is being alleged, reports may be made directly to the KSB/KSD Title IX Coordinator. Complaints of harassment/discrimination, whether verbal or written, shall lead to a documented investigation and a written report.

In applicable cases, employees must report harassment/discrimination to appropriate law enforcement authorities in accordance with law.¹

Harassment/Discrimination**GUIDELINES (CONTINUED)**

The Commissioner/Designee shall provide for the following:

1. Investigation of allegations of harassment/discrimination to commence as soon as circumstances allow, but not later than three (3) working days of receipt of the original complaint, regardless of the manner in which the complaint is communicated to a KSB/KSD administrator. A written report of all findings of the investigation shall be completed within thirty (30) calendar days, unless additional time is necessary due to the matter being investigated by a law enforcement or governmental agency.

The Commissioner/Designee may take interim measures to protect complainants during the investigation.

2. A process to identify and implement, within five (5) working days of the submission of the written investigative report, methods to correct and prevent reoccurrence of the harassment/discrimination. If corrective action is not required, an explanation shall be included in the report.
3. A process to be developed and implemented to communicate requirements of this policy to all staff, which may include, but not be limited to, the following:
 - written notice provided in publications such as handbooks, staff memoranda, and/or pamphlets;
 - postings in the same location as are documents that must be posted according to state/federal law; and/or
 - such other measures as determined by the Commissioner/Designee.

Method(s) used shall provide a summary of this policy, along with information concerning how individuals can access the KSB/KSD's complete policy.

4. Annual training explaining prohibited behaviors and the necessity for prompt reporting of alleged harassment/discrimination; and
5. Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.

PROHIBITED CONDUCT

Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy, examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:

1. Any nicknames, slurs, stories, jokes, written materials or pictures that are lewd, vulgar, or profane and relate to any of the protected categories listed in the definition of harassment/discrimination contained in this policy;
2. Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors;
3. Instances involving sexual violence;
4. Causing an employee to believe that he or she must submit to unwelcome sexual conduct in order to maintain employment or that a personnel decision will be based on whether or not the employee submits to unwelcome sexual conduct;

Harassment/Discrimination**PROHIBITED CONDUCT (CONTINUED)**

5. Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories;
6. Seeking to involve individuals with disabilities in antisocial, dangerous or criminal activity where they, because of disability, are unable to comprehend fully or consent to the activity; and
7. Destroying or damaging an individual's property based on any of the protected categories.

CONFIDENTIALITY

KSB/KSD employees involved in the investigation of complaints shall respect, as much as possible, the privacy and anonymity of all parties involved.

APPEAL

Upon the completion of the investigation and correction of the conditions leading to the harassment/discrimination, any party may appeal in writing any part of the findings and corrective actions to the Commissioner/Designee.

If a supervisory staff member is an alleged party in the harassment/discrimination complaint, provision shall be made for addressing the complaint to a higher level of authority.

Failure by employees to report, notify, and/or initiate an investigation of alleged harassment/discrimination as required by this policy or to take corrective action shall be cause for disciplinary action.

RETALIATION PROHIBITED

No one shall retaliate against an employee or student because s/he submits a grievance, assists or participates in an investigation, proceeding, or hearing regarding the charge of harassment/discrimination of an individual or because s/he has opposed language or conduct that violates this policy.

Upon the resolution of allegations, the Commissioner/Designee shall take steps to protect employees and students against retaliation.

OTHER CLAIMS

When a complaint is received that does not appear to be covered by this policy, administrators shall review other policies that may govern the allegations, including but not limited to, 03.113, 03.1325 and/or 09.422.

REFERENCES:

- ¹KRS 158.156; KRS Chapter 344; 42 USC 2000e, Civil Rights Act of 1964, Title VII
- 29 C.F.R. 1604.11, Equal Employment Opportunity Commission (EEOC) Regulations Implementing Title VII
- 20 U.S.C. 1681, Education Amendments of 1972, Title IX
- 34 C.F.R. 106.1-106.71, U.S. Department of Education Office for Civil Rights Regulations Implementing Title IX
- Genetic Information Nondiscrimination Act of 2008
- Age Discrimination Act, 42 U.S.C. 6101-6107; 34 C.F.R. 110.25
- [Bostock v. Clayton County, Georgia 140 S.Ct. 1731 \(2020\)](#)

PERSONNEL

03.162
(CONTINUED)

Harassment/Discrimination

RELATED POLICIES:

03.113; 03.1325; 03.16; 09.2211; 09.422; 09.42811

LEGAL: HB 258 CREATES A FOUNDATION BENEFIT COMPONENT FOR INDIVIDUALS WHO BECOME MEMBERS OF THE TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY 1, 2022. UNUSED SICK DAYS FOR THOSE MEMBERS MAY BE DEPOSITED INTO THE MEMBER'S SUPPLEMENTAL BENEFIT COMPONENT UPON RETIREMENT.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

PERSONNEL

03.175

-CERTIFIED PERSONNEL-

Retirement

DEFINITION

Retirement means retirement as determined by Teachers' Retirement System guidelines.

NOTICE

Persons retiring should give the Commissioner/Designee notice as far in advance as possible but not less than two (2) weeks prior to retirement.

RESPONSIBILITY

Retirement benefits shall be solely a matter of contract between the employee and the Teachers' Retirement System and shall not be the responsibility of the KSB/KSD except that the KSB/KSD shall deduct and send to the Teachers' Retirement System in the manner prescribed, those amounts required under law.

UNUSED SICK DAYS

The KSB/KSD may compensate certified employees only upon initial retirement, or their estate, for each unused sick day at a rate not to exceed 30% of the daily salary. This calculation is based on the employee's last annual salary. For personnel who begin employment with a local school district or KSB/KSD on or after July 1, 2008, unused sick leave days to be recognized in calculating reimbursement under KRS 161.155 shall not exceed 300 days. For personnel who become members of the Teachers' Retirement System on or after January 1, 2022, payment for unused sick leave days shall not be incorporated into the annual compensation used to calculate the retirement allowance in the foundational benefit but may be deposited into the member's supplemental benefit component.¹

The KSB/KSD shall provide compensation for unused sick leave days in accordance with KRS 161.623 or KRS 161.155 when the employee provides proof s/he qualifies as an annuitant who will receive a retirement or disability allowance from the Teachers' Retirement System. Upon death of an employee in active contributing status who was eligible to retire by reason of service, the KSB/KSD shall compensate the estate of the employee in accordance with this Policy.

REFERENCES:

¹KRS 161.155
KRS 157.420; KRS 161.220
KRS 161.540; KRS 161.545
KRS 161.560; KRS 161.600; KRS 161.623
KRS 161.633; KRS 161.635
OAG 81-1; OAG 83-191; OAG 97-28
29 U.S.C. 631

- CERTIFIED PERSONNEL -**Professional Development****PROGRAM TO BE PROVIDED**

The KSB/KSD shall provide a high quality, personalized, and evidence based professional development (PD) program that meets the goals established in [KRS 158.6451](#), the Every Student Succeeds Act (ESSA), and in the local needs assessment. At the direction of the Principal or designee and in conjunction with each school, the Principal or designee shall facilitate the development and implementation of this program for all certified employees.

The PD program for the KSB/KSD ~~shall be incorporated into the KSB/KSD Comprehensive Improvement Plan. Prior to the implementation of the program, the school PD plan~~ shall be made public, and the KSB/KSD PD plan shall be posted to the KSB/KSD web site.

The program shall be designed;

1. to help achieve student capacities established by [KRS 158.645](#) and goals established by [KRS 158.6451](#);
2. to support the KSB/KSD's mission, goals and assessed needs; and
3. to increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans.

The PD plan shall reflect individual needs of schools ~~and be aligned with the KSB/KSD Comprehensive Improvement Plan~~, ESSA requirements, and teacher growth plans.

ACTIVE SHOOTER SITUATIONS

By November 1, annually, a minimum of one (1) hour of training on how to respond to an active shooter situation shall be required for all KSB/KSD employees with job duties requiring direct contact with students. The training shall be provided either in person, by live streaming, or via a video recording prepared by the Kentucky Department of Criminal Justice Training in collaboration with the Kentucky Law Enforcement Council, the Kentucky Department of Education, and the Center for School Safety and may be included in the four (4) days of professional development under [KRS 158.070](#). When a staff member subject to the training requirements of this subsection is initially hired after the training has been provided for the school year, KSB/KSD shall provide materials on how to respond to an active shooter situation.

SCHOOL RESPONSIBILITIES

Each school shall plan professional development with the Principal/designee and, when appropriate, with other schools to maximize training opportunities. In addition, each school's PD plan shall be submitted to the Commissioner/Designee for review and comment.

Professional Development**DOCUMENTATION**

The KSB/KSD PD plan shall include the method for evaluating impact on student learning and using evaluation results to improve professional learning.

Documentation of completed professional development, including a written evaluation, shall be required. Unless an employee is granted leave under an appropriate KSB/KSD policy, failure to complete and document the required hours of professional development during the academic year shall result in a reduction in salary and may be reflected in the employee's evaluation.

REFERENCES:

[KRS 156.095](#); [KRS 156.553](#)
[KRS 158.070](#); [KRS 158.645](#); [KRS 158.6451](#)
[KRS 160.345](#)
[704 KAR 003:035](#); [704 KAR 003:325](#)
P. L. 114-95 (Every Student Succeeds Act of 2015)

RELATED POLICIES:

03.1911; 09.22

Adopted/Amended: 8/6/2020
Order #: XVIII.A5

LEGAL: REVISIONS TO 702 KAR 5:080 CLARIFY THAT SCHOOL BUS DRIVERS, MECHANICS, OR ANYONE PERFORMING SAFETY-SENSITIVE STUDENT TRANSPORTATION DUTIES FOUND UNDER THE INFLUENCE OF ALCOHOL OR ANY ILLEGAL DRUGS WHILE ON DUTY OR WITH REMAINING DRIVING RESPONSIBILITIES THAT SAME DAY, SHALL BE DISMISSED FROM EMPLOYMENT IN ACCORDANCE WITH KENTUCKY ADMINISTRATIVE REGULATION AND BOARD POLICY AND SHALL NOT BE ELIGIBLE FOR REEMPLOYMENT IN A SAFETY-SENSITIVE STUDENT TRANSPORTATION POSITION FOR FIVE (5) YEARS.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

TRANSPORTATION

06.221

School Bus Drivers' Use of Tobacco and Other Substances

TOBACCO, ALTERNATIVE NICOTINE, OR VAPOR PRODUCTS

The use of any tobacco product, alternative nicotine product, or vapor product as defined in KRS 438.305 is prohibited for all persons and at all times on or in all property, including any vehicle, that is owned, operated, leased, or contracted for use by the KSB/KSD and while attending or participating in any school-related student trip or student activity and is in the presence of a student or students.¹

Adequate notice shall be provided to students, parents and guardians, school employees, and the general public.

Signage shall be posted on or in all property, including any vehicle that is owned, operated, leased, or contracted for use by the KSB/KSD, clearly stating that the use of all such products is prohibited at all times and by all persons on or in the property.

School employees shall enforce the policy.

DEFINITIONS

The following definitions apply for purposes of drug and alcohol testing required by federal and state law:

"Drugs" refers to controlled substances as prohibited by the Omnibus Act, including but not limited to, marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

"Alcohol" refers to the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including but not limited to, methyl and isopropyl. Alcohol use includes the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

USE PROHIBITED

All employees subject to commercial driver's license (CDL) requirements shall be prohibited from:

1. The use of any drugs, that may affect the employee's ability to safely drive a school bus or perform other job responsibilities;
2. The use of alcohol:
 - a. While on duty;
 - b. Four (4) hours before driving;
 - c. Eight (8) hours following an accident; or
 - d. Consumption resulting in prohibited levels of alcohol in the system.

School Bus Drivers' Use of Tobacco and Other Substances**REQUIRED REPORTS**

- **School bus** Drivers taking medication either by prescription or without prescription shall report to the immediate supervisor and shall not drive if that medication may affect the driver's ability to safely drive a school bus or perform other driver responsibilities.²
- **School bus** Drivers shall immediately report to the Principal and human resources office any traffic violation specified in Kentucky Administrative Regulation.²

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA) DRUG AND ALCOHOL CLEARINGHOUSE

The Clearinghouse is a secure online database that gives employers, the FMCSA, State Driver Licensing Agencies (SDLAs), and State law enforcement personnel real-time information about commercial driver's license (CDL) and commercial learner's permit (CLP) holders' drug and alcohol program violations. The Clearinghouse enables employers to identify drivers who commit a drug and alcohol program violation while working for one employer, but who fail to subsequently inform another employer (as required by current regulations).

<https://www.fmcsa.dot.gov/>

The KSB/KSD must not employ a driver subject to controlled substances and alcohol testing to perform a safety-sensitive function without first conducting a pre-employment query of the Clearinghouse to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of law; or that an employer has reported actual knowledge, as defined by federal regulation, that the driver used alcohol on duty, used alcohol before duty, used alcohol following an accident, or used a controlled substance, in violation of federal regulations.

The KSB/KSD must conduct a query of the Clearinghouse at least once per year for information for all CDL drivers subject to controlled substance and alcohol testing to determine whether information exists in the Clearinghouse about those employees. The KSB/KSD shall not allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query on the driver demonstrate a disqualification as provided by regulation and described above and such driver may be subject to personnel action up to and including termination.

Reporting of the following information on individual drivers to the federal Clearinghouse is required: verified positive, adulterated, or substituted test results; confirmed alcohol tests at .04 or higher; refusal to submit to required tests; the reporting of actual knowledge (as defined by federal regulation) of Department of Transportation (DOT) regulatory violations, including violations based on prohibited on duty, pre-duty, or post-accident alcohol use and controlled substance use; and regulatory return to duty and follow-up testing information as applicable.

TESTING

All covered applicants and employees shall be subject to pre-employment testing (controlled substances only), and reasonable suspicion, random and post-accident testing for drugs and alcohol. Return-to-duty and follow-up testing shall also be required.

All offers of employment with the KSB/KSD shall be made contingent upon testing results. An applicant who tests positive shall not be employed.

School Bus Drivers' Use of Tobacco and Other Substances**TESTING (CONTINUED)**

Current employees who test positive shall be subject to immediate disciplinary action up to and including dismissal in accordance with Board policy and administrative procedures. A school bus driver, substitute driver, school bus mechanic or anyone performing safety-sensitive pupil transportation duties who tests 0.02 percent or higher on the confirmation alcohol test immediately before, during, or immediately following the performance of these duties shall be relieved of these duties immediately. (~~School bus Drivers~~ found under the influence of alcohol or any illegal drugs while on duty or with remaining driving responsibilities that same day shall be dismissed from employment in accordance with Kentucky Administrative Regulation and Board policy and shall not be eligible for reemployment in a safety-sensitive student transportation position for five [5] years-).

Employees who test positive shall be notified of referral services. Additionally, employees shall be subject to CDL prohibitions and penalties under the Omnibus Act and applicable Federal Motor Carrier Safety Regulations.

Applicants who refuse drug testing shall be eliminated immediately from employment consideration. Current employees who refuse to comply with testing requirements will be regarded as insubordinate and shall be subject to disciplinary action, up to and including dismissal.

Refusal to submit to an alcohol or controlled substance test means that the individual demonstrated noncompliance, including but not limited to the following actions:

- Failed to appear for any test within a reasonable period of time as determined by the employer and consistent with applicable Department of Transportation agency regulation;
- Failed to remain at the testing site until the testing process was completed;
- Failed to provide a sample specimen for any required test;
- Failed to provide a sample in an amount sufficient for testing without an adequate medical reason for the failure;
- Failed to undergo a medical examination as directed by the Medical Review Officer as part of the verification process for the previous listed reason;
- Failed or declined to submit to a second test that the employer or collector has directed the driver to take;
- Failed to cooperate with any of the testing process; and/or
- Adulterated or substituted a test result as reported by the Medical Review Officer.

TESTING COSTS

Pre-employment drug testing costs shall be paid for by the KSB/KSD. All current employee drug and alcohol testing including reasonable suspicion, random and post-accident testing costs shall be paid for by the KSB/KSD.

School Bus Drivers' Use of Tobacco and Other Substances**MATERIALS TO BE PROVIDED**

KSB/KSD shall distribute educational materials to explain state and federal legal requirements for alcohol and controlled substance testing of CDL drivers and the KSB/KSD's policies and procedures to implement it and answer questions about the materials. Materials shall meet content requirements of state and federal regulations, including information on required reporting to the federal Clearinghouse, and shall be distributed to each driver prior to the start of alcohol and controlled substances testing each year and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle. Each employee is required to sign a statement certifying that s/he has received a copy of these materials. If the KSB/KSD recognizes an organization to represent bus drivers, the KSB/KSD shall provide written notice to representatives of the organization of the availability of this information.³

REFERENCES:

¹KRS 438.050; KRS 438.305; KRS 438.345

²702 KAR 5:080

³49 C.F.R. Part 382

49 C.F.R. § 382.701; 49 C.F.R. § 382.703; 49 C.F.R. § 390

Omnibus Employee Testing Act of 1991, Public Law 102-143, Title V

RELATED POLICIES:

03.11; 03.13251; 03.1327; 03.17

03.21; 03.23251; 03.2327; 03.27

09.4232; 10.5

LEGAL: REVISIONS TO 702 KAR 5:080 INCLUDE FIRST AID AND CPR TRAINING REQUIREMENTS.
FINANCIAL IMPLICATIONS: COST OF ADDITIONAL TRAINING

TRANSPORTATION

06.23

Driver and Substitute Driver Training

KSB/KSD RESPONSIBILITY

KSB/KSD shall be responsible for providing the annual required in-service school bus driver training in accordance with 702 KAR 5:030 and 702 KAR 5:080.

All training requirements include both regular and substitute drivers.

FIRST AID AND CARDIOPULMONARY RESUSCITATION (CPR) TRAINING REQUIRED

All school bus drivers, student transportation technicians, and employees that transport students shall, at a minimum, receive basic first aid and CPR training by a person with a valid certificate in first-aid training, including CPR, from the American Red Cross; or equivalent training that can be verified by documentary evidence.¹

COMMERCIAL DRIVER'S LICENSE

The KSB/KSD may pay the fee for the commercial driver's license required for all bus drivers and substitute bus drivers. Any license certification beyond what is required to drive school buses must be paid for by the individual.

REFERENCES:

¹702 KAR 5:080

KRS 189.370

KRS 189.375

KRS 189.380

KRS 189.450

KRS 189.540

KRS 189.550

KRS 189.580

KRS 189.635

702 KAR 5:030

~~702 KAR 5:080~~

702 KAR 5:010

LEGAL: REVISIONS TO 702 KAR 5:080 PERMIT ARCHERY EQUIPMENT, USED IN CONNECTION WITH SCHOOL ARCHERY TEAMS, TO BE TRANSPORTED ON THE BUS AND CLARIFY THE USE OF A SERVICE ANIMAL. DISTRICTS MAY ALSO HAVE POLICIES ON EATING AND DRINKING ON THE BUS.
FINANCIAL IMPLICATIONS: NONE ANTICIPATED

TRANSPORTATION

06.342

Hazards in and on Bus

PROHIBITED ITEMS

Passengers shall not bring an object on the school bus that may block the bus aisles or exits or otherwise impede exiting the bus.

~~A driver shall not knowingly permit any of the~~ The following are not to be transported on the bus:

1. ~~F~~irearms or weapons, either operative or ceremonial (exception: archery bows, used in connection with a school archery team, may be transported inside the passenger compartment and arrows transported in the underneath storage compartment);
 2. ~~F~~ireworks or other explosive materials of any type;
 3. ~~L~~ive animals, except for a service animal necessary for a student to attend school; Note: animals that are not a risk to other bus riders and that are necessary to enable a person to safely utilize the bus transportation as documented by adequate medical evidence, or required by a student's Individual Education or Section 504 Plan, or a service animal shall be allowed on the bus. or
 4. ~~Preserved specimens that would likely frighten a pupil or cause a commotion on the bus;~~
~~or~~
- 5.4. ~~G~~lass objects or helium balloons.

REFERENCES:

KRS 158.110

702 KAR 5:080

702 KAR 5:150

20 U.S.C. § 1400 et seq. Individuals with Disabilities Education ~~Improvement~~ Act (IDEA)

Section 504 of Rehabilitation Act of 1973

Americans with Disabilities Act

LEGAL: REPEAL OF 702 KAR 6:045 ALLEVIATES SOME OF THE ADMINISTRATIVE BURDEN ON SCHOOL DISTRICTS WHILE PRESERVING THE SAFETY OF SCHOOL NUTRITION PROGRAMS AS, UNDER CURRENT LAW, THE FOOD SERVICE STAFF FOR SCHOOL DISTRICTS PARTICIPATING IN FEDERAL CHILD NUTRITION PROGRAMS ARE SUBJECT TO LOCAL, STATE, AND FEDERAL TRAINING REQUIREMENTS.

FINANCIAL IMPLICATIONS: NONE ANTICIPATED

SUPPORT SERVICES

07.16

Food Service Employees

FOOD SERVICE EMPLOYEES

All food service/school nutrition employees shall meet the qualifications of and be in compliance with the responsibilities noted in federal regulation, ~~or 702 KAR 6:045, whichever is most stringent.~~¹ In addition, food service/school nutrition program directors and school cafeteria managers shall meet training and credential requirements specified in statute.¹²

REFERENCES:

~~¹702 KAR 6:045~~

¹²KRS 158.852

KRS 156.160

KRS 161.011

~~7 C.F.R. §§ 210.30 (b) – (g)~~~~7 C.F.R. 235.11 (g)~~; 42 U.S.C. § 1776(g)

7 C.F.R. § 210.31

LEGAL: SB 158 (2020) AMENDED KRS 158.140 TO CLARIFY THAT ANY HIGH SCHOOL GRADUATION REQUIREMENTS ADOPTED BY THE BOARD SHALL NOT INCLUDE ACHIEVING A MINIMUM SCORE ON A STATEWIDE ASSESSMENT TO GRADUATE FROM HIGH SCHOOL. ADDITIONALLY, REVISIONS TO 704 KAR 3:305 REMOVE GRADUATION PREREQUISITES AND QUALIFIERS. WHILE THE REGULATION IS NOT FINAL YET, WE ANTICIPATE IT TO BE FINAL ON OR BEFORE MAY 4TH.
FINANCIAL IMPLICATIONS: NONE ANTICIPATED

CURRICULUM AND INSTRUCTION

08.113

Graduation Requirements

In support of student development goals set out in KRS 158.6451 and the Kentucky Academic Standards, students must complete a minimum of twenty-two (22) credits, including demonstrated performance-based competency in technology, and all other state and local requirements in order to graduate from high school.

CIVICS EXAM REQUIREMENT

Students wishing to receive a regular diploma must pass a civics test made up of one hundred (100) questions selected from the civics test administered to persons seeking to become naturalized citizens and prepared or approved by the Kentucky Board of Education. A minimum score of sixty percent (60%) is required to pass the test and students may take the test as many times as needed to pass. Students that have passed a similar test within the previous five (5) years shall be exempt from this civics test. This shall be subject to the requirements and accommodations of a student's individualized education program (IEP) or a Section 504 Plan.³

INDIVIDUAL LEARNING PLAN (ILP)

Students shall complete an Individual Learning Plan (ILP) that focuses on career exploration and related postsecondary education and training needs.

In addition to the content requirements established by the Kentucky Academic Standards, the Kentucky Board of Education may impose other credit requirements for graduation from high school. However, the KBE shall not adopt any graduation requirements that include achieving a minimum score on a statewide assessment. ~~Students shall complete an Individual Learning Plan (ILP) that focuses on career exploration and related postsecondary education and training needs.~~

Graduation Requirements**FOR STUDENTS ENTERING GRADE NINE (9) ON OR BEFORE THE FIRST DAY OF THE 2018-2019 ACADEMIC YEAR**

Credits shall include content standards as provided by the Kentucky Academic Standards established in 704 KAR 3:303 and 704 KAR Chapter 8. The required credits and demonstrated competencies shall include the following minimum requirements:

Language Arts	Four (4) Credits (English I, II, III, and IV) taken each year of high school. Students that do not meet the college readiness benchmarks for English and language arts shall take a transitional course or intervention, which is monitored to address remediation needs, before exiting high school.
Social Studies	Three (3) Credits
Mathematics	Three (3) Credits (Algebra I, Geometry and Algebra II); (An integrated, applied, interdisciplinary, occupational, or technical course that prepares a student for a career path based on the student's ILP may be substituted for a traditional Algebra I, Geometry, or Algebra II course on an individual student basis if the course meets the content standards in the Kentucky Academic Standards, established in 704 KAR 3:303 and 704 Chapter 8. A mathematics course or its equivalent as determined by the District shall be taken each year of high school to ensure readiness for postsecondary education or the workforce. Any mathematics course other than Algebra I, Geometry, or Algebra II shall be counted as an elective. Students that do not meet the college readiness benchmarks for mathematics shall take a transitional course or intervention, which is monitored to address remediation needs, before exiting high school.
Science	Three (3) Credits incorporating lab-based scientific investigation
Health	One-half (1/2) Credit
P.E.	One-half (1/2) Credit
Visual and Performing Arts	One (1) Credit or a standards-based specialized arts course based on the student's ILP
Academic and Career Interest Standards-based Learning Experiences	Seven (7) Credits total (Three (3) plus four (4) standards-based credits in an academic or career interest based on the student's ILP)
Technology	Demonstrated performance-based competency

Graduation Requirements**FOR STUDENTS ENTERING GRADE NINE (9) ON OR AFTER THE FIRST DAY OF THE 2019-2020 ACADEMIC YEAR**

Credits shall include content standards as provided by the Kentucky Academic Standards established in 704 KAR 3:303 and 704 KAR Chapter 8. The required credits and demonstrated competencies shall include the following minimum requirements:

<u>English</u> /Language Arts	Four (4) Credits total (English I and II plus two (2) credits aligned to the student's ILP)
Social Studies	Three (3) Credits total – (Two (2) plus one (1) credit aligned to the student's ILP)
Mathematics	Four (4) Credits total (Algebra I and Geometry plus two (2) credits aligned to the student's ILP)
Science	Three (3) Credits total – (Two (2) credits incorporating lab-based scientific investigation experiences plus one (1) credit aligned to the student's ILP)
Health	One-half (1/2) Credit
P.E.	One-half (1/2) Credit
Visual and Performing Arts	One (1) Credit or a standards-based specialized arts course based on the student's ILP
Academic and Career Interest Standards-based Learning Experiences	Six (6) Credits total (Two (2) plus four (4) standards-based credits in an academic or career interest based on the student's ILP)
Technology	Demonstrated performance-based competency
<u>Additional qualifiers as follows:</u>	

Complete one (1) or more of the following graduation qualifiers:

1. Satisfy precollege curriculum as established by the Council on Postsecondary Education in 13 KAR 2:020;
1. Achieve benchmark score as established by the Council on Postsecondary Education in 13 KAR 2:020 in one (1) section of a college admissions or placement examination;
2. Complete three (3) postsecondary credit hours or more of a Kentucky Department of Education approved dual credit course with a grade of C or higher;
3. Complete one (1) course and corresponding assessment meeting the following criteria:
 - a) — Advanced placement (AP) with a score of three (3) or higher;
 - a) — Cambridge Advanced International (CAI) with a score at E or higher; or
 - b) — International Baccalaureate (IB) with a score of five (5) or higher;

Graduation Requirements**~~FOR STUDENTS ENTERING GRADE NINE (9) ON OR AFTER THE FIRST DAY OF THE 2019-2020 ACADEMIC YEAR (CONTINUED)~~**

- ~~4. Obtain an industry certification as approved by the Kentucky Workforce Innovation Board;~~
- ~~5. Complete four (4) credits from valid courses within a single Kentucky Department of Education approved career pathway;~~
- ~~6. Complete a Kentucky Department of Education approved process to verify 500 hours of exceptional work experience, or alternative requirements as determined by a student's Admissions and Release Committee and specified in the student's IEP; and~~
- ~~7. Complete two (2) years in an approved Kentucky Department of Education or Kentucky Labor Cabinet pre-apprenticeship or apprenticeship program.~~

Graduation Requirements**FOR STUDENTS ENTERING GRADE NINE (9) ON OR AFTER THE FIRST DAY OF THE 2020-2021 ACADEMIC YEAR**

Credits shall include content standards as provided by the Kentucky Academic Standards established in 704 KAR 3:303 and 704 KAR Chapter 8. The required credits and demonstrated competencies shall include the following minimum requirements:

<u>English</u> /Language Arts	Four (4) Credits total (English I and II plus two (2) credits aligned to the student's ILP)
Social Studies	Three (3) Credits total – (Two (2) plus one (1) credit aligned to the student's ILP)
Mathematics	Four (4) Credits total (Algebra I and Geometry plus two (2) credits aligned to the student's ILP)
Science	Three (3) Credits total – (Two (2) credits incorporating lab-based scientific investigation experiences plus one (1) credit aligned to the student's ILP)
Health	One-half (1/2) Credit
P.E.	One-half (1/2) Credit
Visual and Performing Arts	One (1) Credit or a standards-based specialized arts course based on the student's ILP
Academic and Career Interest Standards-based Learning Experiences	Six (6) Credits total (Two (2) plus four (4) standards-based credits in an academic or career interest based on the student's ILP)
Technology	Demonstrated performance-based competency
Financial Literacy	One (1) or more courses or programs that meet the financial literacy requirements pursuant to KRS 158.1411.
<u>Additional qualifiers and prerequisites as follows:</u>	

I. — Complete one (1) or more of the following graduation qualifiers:

- ~~1. Satisfy precollege curriculum as established by the Council on Postsecondary Education in 13 KAR 2:020;~~
- ~~1. Achieve benchmark score as established by the Council on Postsecondary Education in 13 KAR 2:020 in one (1) section of a college admissions or placement examination;~~
- ~~2. Complete three (3) postsecondary credit hours or more of a Kentucky Department of Education approved dual credit course with a grade of C or higher;~~

Graduation Requirements

~~FOR STUDENTS ENTERING GRADE NINE (9) ON OR AFTER THE FIRST DAY OF THE 2020-2021 ACADEMIC YEAR (CONTINUED)~~

~~3. Complete one (1) course and corresponding assessment meeting the following criteria:~~

- ~~a) Advanced placement (AP) with a score of three (3) or higher;~~
- ~~a) Cambridge Advanced International (CAI) with a score at E or higher; or~~
- ~~b) International baccalaureate (IB) with a score of five (5) or higher;~~

~~4. Obtain an industry certification as approved by the Kentucky Workforce Innovation Board;~~

~~5. Complete four (4) credits from valid courses within a single Kentucky Department of Education approved career pathway;~~

~~6. Complete a Kentucky Department of Education approved process to verify 500 hours of exceptional work experience, or alternative requirements as determined by a student's Admissions and Release Committee and specified in the student's IEP; and~~

~~7. Complete two (2) years in an approved Kentucky Department of Education or Kentucky Labor Cabinet pre-apprenticeship or apprenticeship program.~~

~~H. Meet one (1) of the following graduation prerequisites for reading and one (1) of the following graduation prerequisites for mathematics:~~

~~1. Score at or above the minimum criteria on the tenth (10th) grade state required assessments in reading or mathematics;~~

~~1. Score proficient or higher for reading or mathematics on the eighth (8th) grade state required assessment; or~~

~~2. A student collection of evidence submitted by the Principal to the Superintendent/designee for review and approval. The collection of evidence shall include the following:~~

- ~~• The student's ILP that includes student transcript;~~
- ~~• If applicable, for students with IEPs, evidence that the student has achieved progress on measurable annual IEP goals as determined by the Admissions and Release Committee;~~
- ~~• Performance on the tenth (10th) grade state required assessments in reading or mathematics;~~
- ~~• Appropriate interventions, targeted to the student's needs;~~
- ~~• Student work demonstrating the student's competency in reading or mathematics; and~~
- ~~• The student's post-graduation plans.~~

Graduation Requirements

PERFORMANCE-BASED CREDITS

In addition to Carnegie units, students may earn credit toward high school graduation through the KSB/KSD's standards-based, performance-based credit system that complies with requirements of Kentucky Administrative Regulation. Procedures for developing and amending the system shall address the following:

1. Conditions under which high school credit will be granted under the system that allow students to demonstrate proficiency and earn credit for learning acquired outside the normal classroom setting, outside of school, or in prior learning;

Performance-based credit may be earned while the student is still "in school," but the instructional setting will look different from a traditional "seat time" environment.

2. Performance descriptors and their linkages to State content standards and academic standards;

At the high school level, performance descriptors and evaluation procedures shall be established to determine if the content and performance standards have been met.

3. Assessments and the extent to which state-mandated assessments will be used;
4. An objective grading and reporting process; and
5. Criteria to promote and support school and community learning experiences, such as internships and cooperative learning, in support of a student's ILP. Such experiences shall be supervised by qualified instructors and aligned with State and KSB/KSD content and performance standards.

The high school student handbook shall include complete details concerning specific graduation requirements.

In keeping with statutory requirements, the KSB/KSD shall accept for credit toward graduation and completion of high school course requirements an advanced placement or a high school equivalent course taken by a student in grades 5, 6, 7, or 8 if that student attains performance levels expected of high school students as determined by achieving a score of "3" or higher on a College Board Advanced Placement examination or a grade of "B" or better in a high school equivalent.¹

OTHER PROVISIONS

The KSB/KSD may grant different diplomas to those students who complete credits above the minimum number as established by the Kentucky Board of Education. In addition, the KSB/KSD may award a diploma to a student posthumously indicating graduation with the class with which the student was expected to graduate.

The KSB/KSD, Principal, or teacher may award special recognition to students.

Consistent with the KSB/KSD's graduation practices for all students, an alternative high school diploma shall be awarded to students with disabilities in compliance with applicable legal requirements. In addition, former students may submit to the Principal a request that the KSB/KSD provide them with an alternative high school diploma to replace the certificate of attainment they received at time of graduation.

Graduation Requirements

OTHER PROVISIONS

A student who is at least seventeen (17) years of age and who is a state agency child, as defined in KRS 158.135, shall be eligible to seek attainment of a High School Equivalency Diploma.

~~The KSB/KSD shall report individual student data regarding the completion of each graduation qualifier and each graduation prerequisite to the Kentucky Department of Education.~~

The Commissioner/Designee may substitute an integrated, applied, interdisciplinary, occupational, technical, or higher-level course for a required course if the alternative course provides rigorous content.

EARLY GRADUATION CERTIFICATE

Students who meet all applicable legal requirements shall be eligible for early graduation in relation to receipt of a graduation diploma and an Early Graduation Certificate. Students wishing to follow an early graduation pathway shall notify the Principal of their intent prior to the beginning of grade nine (9) or as soon thereafter as the intent is known, but within the first thirty (30) school days of the academic year in which they wish to graduate. A Letter of Intent to Apply shall be entered into the student information system by October 1 of the year the student declares intent to graduate early.⁴

Students working toward receipt of an Early Graduation Certificate shall be supported by development and monitoring of an ILP to support their efforts.

To graduate early and earn an Early Graduation Certificate, a student shall:

1. Score proficient or higher on the state-required assessments; and
2. Meet the college readiness exam benchmarks established 13 KAR 2:020 for placement in credit-bearing courses without the need for remediation.

A student who has indicated an intent to graduate early may participate in the student's state administration of the college readiness exam prior to the junior year, if needed. Students who meet all applicable legal requirements shall be awarded a diploma and an Early Graduation Certificate.

REFERENCES:

¹KRS 158.622

²KRS 158.142; 704 KAR 3:305

³KRS 158.141

KRS 156.027; KRS 158.135

KRS 158.1411; KRS 158.143; KRS 158.183; KRS 158.281

KRS 158.302; KRS 158.645; KRS 158.6451; KRS 158.860; KRS 156.160

20 U.S.C. ~~§see~~ 1414

13 KAR 2:020; 702 KAR 7:125; 703 KAR 4:060

704 KAR 3:303; 704 KAR 3:306; 704 KAR 7:090; 704 KAR Chapter 8

OAG 78-348; OAG 82-386

Kentucky Academic Standards

Graduation Requirements

RELATED POLICIES:

08.1131; 08.14; 08.22; 08.222

09.126 (re requirements/exceptions for students from military families)

RECOMMENDED: IN BOSTOCK V. CLAYTON COUNTY, GEORGIA, THE US SUPREME COURT HELD THAT THE TITLE VII PROHIBITION ON DISCRIMINATION ON THE BASIS OF “SEX” COVERS DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY. BOSTOCK DEALS WITH DISCRIMINATION (TERMINATION) IN EMPLOYMENT. ON JANUARY 20, 2021, THE PRESIDENT OF THE UNITED STATES INDICATED IN EXEC ORDER 1402, 86 FED.REG.13,803 (3/11/21) THAT THE REASONING OF BOSTOCK APPLIES TO OTHER LAWS THAT PROHIBIT SEX DISCRIMINATION, INCLUDING TITLE IX, “SO LONG AS THE LAWS DO NOT CONTAIN SUFFICIENT INDICATIONS TO THE CONTRARY.” THE PRESIDENT DIRECTED OTHER FEDERAL AGENCIES TO REVIEW SUCH ISSUE. THE UNITED STATES DEPARTMENT OF JUSTICE HAS SINCE ISSUED A MEMORANDUM ADVISING OTHER FEDERAL AGENCIES THAT THE REASONING OF BOSTOCK APPLIES TO TITLE IX AND THE UNITED STATES DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS HAS STATED THAT ONE FOCUS IN IMPLEMENTING THE REFERENCED EXECUTIVE ORDER WILL BE ENSURING THAT STUDENTS WHO HAVE EXPERIENCED DISCRIMINATION BASED ON SEXUAL ORIENTATION OR GENDER IDENTITY WILL HAVE THEIR LEGAL RIGHTS “FULLY MET.” WHILE THE INCLUSION OF THE SPECIFIC ADDITIONAL TERMINOLOGY IS NOT MANDATORY AT THIS TIME, IT IS RECOMMENDED BASED ON THE ABOVE.
FINANCIAL IMPLICATIONS: NONE ANTICIPATED

STUDENTS

09.13

Equal Educational Opportunities

DISCRIMINATION PROHIBITED

As required by Title IX, the KSB/KSD does not discriminate on the basis of sex regarding admission to the KSB/KSD or in the educational programs or activities operated by the KSB/KSD. Inquiries regarding Title IX Sexual Harassment may be referred to the KSB/KSD Title IX Coordinator (TIXC), the Assistant Secretary for Civil Rights, or both.¹

No pupil shall be subject to unlawful discrimination~~discriminated against~~ because of age, color, disability², race, national origin, religion, sex (including sexual orientation or gender identity), or veteran status.

STUDENTS WITH DISABILITIES

KSB/KSD shall provide a free, appropriate public education to each qualified student with a disability, as defined by law, within its jurisdiction.

KSB/KSD shall operate its programs in accordance with the procedures addressing requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

Parents of students who have a temporary or permanent disability may request the Principal to provide appropriate accommodations necessary for them to participate in instructional and extracurricular activities, as required by law. Students who are at least eighteen (18) years of age may submit their own requests.

STUDENT RELIGIOUS ACTIVITIES OR POLITICAL EXPRESSION

KSB/KSD shall observe the rights of students to voluntarily engage in religious activities. Students may express religious or political viewpoints while at school to the same extent and under the same circumstances as other permitted activities or expression. Consistent with the Constitutions of the United States and the Commonwealth of Kentucky and law, students shall be permitted to engage in these activities and express these viewpoints, provided they do not:

Equal Educational Opportunities**STUDENT RELIGIOUS ACTIVITIES OR POLITICAL EXPRESSION (CONTINUED)**

1. Infringe on the rights of the school to:
 - a. Maintain order and discipline;
 - b. Prevent disruption of the educational process; and
 - c. Determine education curriculum;
2. Harass other persons or coerce other persons to participate in the activity; or
3. Otherwise infringe on the rights of other persons.

Student complaints concerning possible violations of their religious rights shall be addressed in keeping with legal requirements. Their complaints shall be directed to the Principal, who shall investigate and take appropriate action within thirty (30) days of receipt of the written notification.

REFERENCES:

¹34 C.F.R. § 106.8

²Bd. of Educ., etc. v. Rowley 102 S.Ct. 3034 (1982)

KSB/KSD special education policy and procedures manual; KSB/KSD 504 procedures

KRS 157.200; KRS 157.224; KRS 157.230; KRS 157.350

KRS 158.183; KRS 160.295; Age Discrimination Act of 1975

Section 504 of Rehabilitation Act of 1973, Americans with Disabilities Act

Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972

Vietnam Era Veterans Readjustment Assistance Act of 1974

Kentucky Education Technology System (KETS); 28 C.F.R. Section 35.101 et seq.

[Bostock v. Clayton County, Georgia 140 S.Ct. 1731 \(2020\)](#)

RELATED POLICIES:

03.113; 03.1621; 03.212; 03.2621; 05.11; 08.131; 09.3211; 09.428111

LEGAL: SB 127 AMENDS KRS 158.836 TO CHANGE THE DEFINITION OF EPIPENS OR OTHER EPINEPHRINE AUTO-INJECTORS TO INJECTABLE EPINEPHRINE DEVICES.
FINANCIAL IMPLICATIONS: NONE ANTICIPATED

STUDENTS

09.2241

Student Medication

School personnel authorized to give medications must be trained in accordance with KRS 158.838, KRS 156.502 and 702 KAR 001:160. Guidelines for diabetes medication administration under 702 KAR 001:160 no longer apply to training of non-licensed school personnel.

Internal medicine, including aspirin, shall not be provided by the school for the purpose of administering to pupils. Antiseptic and appropriate other emergency medications shall be maintained in the first-aid kit.

Pupils may take medicine which is brought from home once a completed authorization form from the parent/guardian is on file.¹

SELF-ADMINISTRATION

A student may be permitted to carry medication that has been prescribed or ordered by a health care practitioner to stay on or with the pupil due to a pressing medical need.

Provided the parent/guardian and health care practitioner files a completed authorization form each year as required by law, a student under treatment for asthma, diabetes, or at risk of having anaphylaxis shall be permitted to self-administer medication.²

In accordance with KRS 158.836, students with a documented life-threatening allergy or designated staff shall be permitted to carry an injectable epinephrine device~~auto-injector~~ in all school environments. The injectable epinephrine device~~auto-injector~~ shall be provided by the student's parent/guardian, and a written individual health care plan shall be in place for the student.³

Students with serious allergies or other serious health conditions may be permitted to self-administer medication as provided in an individualized education program, Section 504 Plan or Health Plan.

Students shall not share any prescription or over-the counter medication with another student. Each year, KSB/KSD shall notify students in writing of this prohibition and that violations shall result in appropriate disciplinary action, including but not limited to suspension or expulsion.

REFERENCES:

¹OAG 73-768

²KRS 158.834; KRS 158.838

³KRS 158.836

KRS 158.832

702 KAR 1:160

Americans with Disabilities Act

Section 504 of the Rehabilitation Act of 1973

OAG 77-530; OAG 83-115

RELATED POLICIES:

09.22~~3~~₅; 09.224

RECOMMENDED: IN BOSTOCK V. CLAYTON COUNTY, GEORGIA, THE US SUPREME COURT HELD THAT THE TITLE VII PROHIBITION ON DISCRIMINATION ON THE BASIS OF “SEX” COVERS DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY. BOSTOCK DEALS WITH DISCRIMINATION (TERMINATION) IN EMPLOYMENT. ON JANUARY 20, 2021, THE PRESIDENT OF THE UNITED STATES INDICATED IN EXEC ORDER 1402, 86 FED.REG.13,803 (3/11/21) THAT THE REASONING OF BOSTOCK APPLIES TO OTHER LAWS THAT PROHIBIT SEX DISCRIMINATION, INCLUDING TITLE IX, “SO LONG AS THE LAWS DO NOT CONTAIN SUFFICIENT INDICATIONS TO THE CONTRARY.” THE PRESIDENT DIRECTED OTHER FEDERAL AGENCIES TO REVIEW SUCH ISSUE. THE UNITED STATES DEPARTMENT OF JUSTICE HAS SINCE ISSUED A MEMORANDUM ADVISING OTHER FEDERAL AGENCIES THAT THE REASONING OF BOSTOCK APPLIES TO TITLE IX AND THE UNITED STATES DEPARTMENT OF EDUCATION, OFFICE OF CIVIL RIGHTS HAS STATED THAT ONE FOCUS IN IMPLEMENTING THE REFERENCED EXECUTIVE ORDER WILL BE ENSURING THAT STUDENTS WHO HAVE EXPERIENCED DISCRIMINATION BASED ON SEXUAL ORIENTATION OR GENDER IDENTITY WILL HAVE THEIR LEGAL RIGHTS “FULLY MET.” WHILE THE INCLUSION OF THE SPECIFIC ADDITIONAL TERMINOLOGY IS NOT MANDATORY AT THIS TIME, IT IS RECOMMENDED BASED ON THE ABOVE.
FINANCIAL IMPLICATIONS: NONE ANTICIPATED

STUDENTS

09.42811

Harassment/Discrimination

DEFINITION

Harassment/Discrimination is unlawful behavior based on race, color, national origin, age, religion, sex (including sexual orientation or gender identity), or disability that is sufficiently severe, pervasive, or objectively offensive that it adversely affects a student's education or creates a hostile or abusive educational environment.

The provisions of this policy shall not be interpreted as applying to speech otherwise protected under the state or federal constitutions where the speech does not otherwise materially or substantially disrupt the educational process, as defined by policy 09.426, or where it does not violate provisions of policy 09.422.

PROHIBITION

Harassment/Discrimination is prohibited at all times on school property and off school grounds during school-sponsored activities. This prohibition also applies to visitors to the school who may come into contact with employees and students. (Acts of harassment/discrimination based on sex may be committed by persons of the same or the opposite sex.)

KSB/KSD staff shall provide for a prompt and equitable resolution of complaints concerning harassment/discrimination.

DISCIPLINARY ACTION

Students who engage in harassment/discrimination of an employee or another student on the basis of any of the areas mentioned above shall be subject to disciplinary action, including but not limited to suspension and expulsion.

Harassment/Discrimination**GUIDELINES**

Students who believe they or any other student, employee, or visitor is being or has been subjected to harassment/discrimination shall, as soon as reasonably practicable, report it. In each school building, the Principal is the person responsible for receiving reports of harassment/discrimination at the building level. Otherwise, reports of harassment/discrimination may be made directly to the Kentucky Department of Education (KDE). Additionally, if sexual discrimination or harassment is being alleged, reports may be made directly to the KSB/KSD Title IX Coordinator. Complaints of harassment/discrimination, whether verbal or written, shall lead to a documented investigation and a written report. Without a report being made to the Principal, KDE or Title IX/Equity Coordinator, KSB/KSD shall not be deemed to have received a complaint of harassment/discrimination.

Employees who believe prohibited behavior is occurring or has occurred shall notify the victim's Principal, who shall immediately forward the information to the KDE.

The KDE shall provide for the following:

1. Investigation of allegations of harassment/discrimination to commence as soon as circumstances allow, but not later than three (3) school days of receipt of the original complaint, regardless of the manner in which the complaint is communicated to a KSB/KSD administrator. A written report of all findings of the investigation shall be completed within thirty (30) calendar days, unless additional time is necessary due to the matter being investigated by a law enforcement or governmental agency.

The KDE may take interim measures to protect complainants during the investigation.

2. A process to identify and implement, within five (5) school days of the submission of the written investigative report, methods to correct and prevent reoccurrence of the harassment/discrimination. If corrective action is not required, an explanation shall be included in the report.
3. A process to be developed and implemented to communicate requirements of this policy to all students, which may include, but not be limited to, the following:
 - written notice provided in publications such as handbooks, codes, and/or pamphlets; and/or
 - such other measures as determined by the Principal.

Method(s) used shall provide a summary of this policy, along with information concerning how individuals can access KSB/KSD's complete policy/procedures and obtain assistance in reporting and responding to alleged incidents. Students, parents or guardians, as appropriate, will be directed to sign an acknowledgement form verifying receipt of information concerning this policy as part of the KSB/KSD-approved code of acceptable behavior and discipline.

4. Age appropriate training during the first month of school to include an explanation of prohibited behavior and the necessity for prompt reporting of alleged harassment/discrimination; and
5. Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.

Harassment/Discrimination**GUIDELINES (CONTINUED)**

When sexual harassment is alleged, KSB/KSD's Title IX Coordinator, as designated in the student handbook/code, shall be notified.

NOTIFICATIONS

Within twenty-four (24) hours of receiving a serious allegation of harassment/discrimination, KSB/KSD personnel shall attempt to notify parents of both student victims and students who have been accused of harassment/discrimination.

In circumstances also involving suspected child abuse, additional notification shall be required by law. (See Policy 09.227.)

In applicable cases, employees must report harassment/discrimination to appropriate law enforcement authorities in accordance with law.¹

PROHIBITED CONDUCT

Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy, examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:

1. Any nicknames, slurs, stories, jokes, written materials or pictures that are lewd, vulgar, or profane and relate to any of the protected categories listed in the definition of harassment/discrimination contained in this policy;
2. Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors;
3. Instances involving sexual violence;
4. Causing a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity or that an educational decision will be based on whether or not the student submits to unwelcome sexual conduct;
5. Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories;
6. Seeking to involve students with disabilities in antisocial, dangerous or criminal activity where the students, because of disability, are unable to comprehend fully or consent to the activity; and
7. Destroying or damaging an individual's property based on any of the protected categories.

CONFIDENTIALITY

KSB/KSD employees involved in the investigation of complaints shall respect, as much as possible, the privacy and anonymity of both victims and persons accused of violations.

APPEAL

Upon the completion of the investigation and correction of the conditions leading to the harassment/discrimination, any party may appeal in writing any part of the findings and corrective actions to the KDE.

Harassment/Discrimination**APPEAL (CONTINUED)**

If a supervisor is an alleged party in the harassment/discrimination complaint, procedures shall also provide for addressing the complaint to a higher level of authority.

Failure by employees to report, notify, and/or initiate an investigation of alleged harassment/discrimination as required by this policy, or to take corrective action shall be cause for disciplinary action.

RETALIATION PROHIBITED

No one shall retaliate against an employee or student because s/he submits a grievance, assists or participates in an investigation, proceeding, or hearing regarding the charge of harassment/discrimination of an individual or because s/he has opposed language or conduct that violates this policy.

Upon the resolution of allegations, the KDE shall take steps to protect employees and students against retaliation.

FALSE COMPLAINTS

Deliberately false or malicious complaints of harassment/discrimination may result in disciplinary action taken against the complainant.

OTHER CLAIMS

When a complaint is received that does not appear to be covered by this policy, administrators shall review other policies that may govern the allegations, including but not limited to, 09.422 and/or 09.426.

REFERENCES:

- ¹KRS 158.156
- 42 USC 2000e, Civil Rights Act of 1964, Title VII
- Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance (U.S. Department of Education)
- U. S. Supreme Court - Franklin vs. Gwinnett County
- 29 C.F.R. 1604.11, Equal Employment Opportunity Commission (EEOC)
- Regulations Implementing Title VII
- 20 U.S.C. 1681, Education Amendments of 1972, Title IX
- 34 C.F.R. 106.1-106.71, U.S. Department of Education Office for Civil Rights
- Regulations Implementing Title IX
- Gebser v. Lago Vista Independent School Dist., 118 S. Ct. 1989 (1998)
- Davis v. Monroe County Bd. of Educ., 119 S. Ct. 1661 (1999)
- Bostock v. Clayton County, Georgia 140 S.Ct. 1731 (2020)

RELATED POLICIES:

- 03.162; 03.262
- 09.13; 09.2211; 09.227; 09.422; 09.426; 09.438

LEGAL: SB 1 (2019) CREATED KRS 158.4416 TO REQUIRE ON OR BEFORE JULY 1, 2021, DISTRICTS TO ADOPT A PLAN FOR IMPLEMENTING A TRAUMA-INFORMED APPROACH IN ITS SCHOOLS INCLUDING DEVELOPING TRAUMA-INFORMED DISCIPLINE POLICIES.
FINANCIAL IMPLICATIONS: COST OF IMPLEMENTING TRAUMA-INFORMED AND SCHOOL SAFETY AND THREAT ASSESSMENT TEAMS

STUDENTS

09.43

Student Disciplinary Processes

SCHOOL-RELATED ACTIVITIES

The authority of KSB/KSD in matters of student behavior is not limited to school buildings and grounds or to times when the pupil is on his/her way to or from school, but extends to any activity which is school-related or school-sponsored.

TRAUMA-INFORMED APPROACH

"Trauma-informed approach" means incorporating principles of trauma awareness and trauma-informed practices, as recommended by the federal Substance Abuse and Mental Health Services Administration, in a school in order to foster a safe, stable, and understanding learning environment for all students and staff and ensuring that all students are known well by at least one (1) adult in the school setting.

The ~~KSB/KSD Board~~ shall develop a plan for implementing a trauma-informed approach. ~~in the KSB/KSD~~. The plan shall be based on the Trauma-Informed Toolkit from KDE and include but not be limited to:

- a) strategies for enhancing trauma awareness throughout the school community;
- b) conducting an assessment of the school climate including but not limited to inclusiveness and respect for diversity;
- c) developing trauma-informed discipline policies;
- d) collaborating with the Department of Kentucky State Police, the local sheriff, and the local chief of police to create procedures for notification of trauma-exposed students; and
- e) providing services and programs designed to reduce the negative impact of trauma, support critical learning, and foster a positive and safe school environment for every student.²

TREATMENT OF PUPILS

Student disciplinary measures should not be administered in a manner that is humiliating, degrading, or unduly severe or in a manner that would cause the pupil to lose status before his/her peer group. Teachers should guard against making remarks to other pupils concerning a student's shortcomings.

Unless an administrator acts under authority of KRS 158.150, no school, school administrator, teacher, or other school employee shall expel or punish a student based on juvenile court information received by the employee from any source. Administrators may act to protect staff and students when the student's conduct, as reflected by the information, indicates a substantial likelihood of an immediate and continuing threat of harm to students or staff. In cases where such actions are necessary, the following provisions shall apply:

1. Restrictions imposed on the student shall represent the least restrictive alternative available and appropriate to remedy the threat.

Student Disciplinary Processes**TREATMENT OF PUPILS (CONTINUED)**

2. Supporting material shall be documented in and kept with the student's juvenile court record.
3. The student and/or parent/guardian may appeal actions taken to the KDE or to the Circuit Court with appropriate jurisdiction.¹

SERIOUS PROBLEMS

Serious disciplinary problems shall be promptly reported to the Principal and to the parent(s) of the student.

REFERENCES:

¹KRS 158.153

²[KRS 158.4416](#)

KRS 158.150; KRS 158.449

KRS 160.290; KRS 160.340; KRS 160.345

KRS 161.180; KRS 610.345

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RELATED POLICIES:

[08.14](#); [09.14](#); [09.429](#); [09.438](#)