

**A RESOLUTION of the _____ Board of Education
Relating to Quarantine Leave during the 2021-2022 School Year pursuant to 702 KAR 1:191E**

WHEREAS, on March 6, 2020, the Governor issued Executive Order 2020-215, declaring a state of emergency throughout Kentucky pursuant to his power under the Kentucky Constitution and KRS Chapter 39A regarding the threats to public health presented by the Novel Coronavirus (COVID-19) pandemic; and

WHEREAS, on August 5, 2021, the Kentucky Board of Education (KBE) approved a new emergency regulation numbered 702 KAR 1:191E, authorizing a new form of paid employee leave to be provided by local boards of education to certain eligible employees relating to COVID-19 exposure quarantine during the 2021-2022 school year under the specific terms of the regulation; and

WHEREAS, the regulation provides local boards and district leadership with discretion as to several aspects of implementation of the regulation;

NOW, THEREFORE: Be it resolved by the _____ Board of Education:

On a Motion by _____, seconded by _____
the Board hereby **RESOLVES AND ORDERS** as follows:

As authorized by, and pursuant to the terms of, the above referenced emergency regulation, eligible District employees shall be granted quarantine leave upon approval of the superintendent/designee subject to the following conditions:

1. The employee shall provide the District with written documentation from the entity placing the employee in quarantine due to COVID-19 exposure.
2. If the employee is determined by the superintendent/designee to be capable of fulfilling his or her job duties remotely during the quarantine period, the employee shall not be eligible for quarantine leave.
3. In order to shorten the quarantine period, the employee shall undergo a COVID-19 test at District expense and shall provide the results to the District. Such test shall occur no sooner than the earliest date recommended by Centers for Disease Control (CDC) and Kentucky Department for Public Health (DPH) quarantine guidelines. If the test result is negative for COVID-19, the employee shall return to work in accordance with CDC and DPH quarantine guidelines.

Adopted by the Board this _____ day of _____, 2021.

Attested by _____, Chair of the Board.

Jordan, Amanda

From: Kennedy, Eric - KSBA <eric.kennedy@ksba.org>
Sent: Wednesday, August 11, 2021 12:06 PM
Subject: Info on two key developments from KSBA
Attachments: SAMPLE KSBA Board Resolution re_Quarantine Leave under 702 KAR 1 91E_08112021.docx

Dear Local School Board members, Superintendents, and Board Attorneys in CSBA,

In an effort to provide clarity for board members in the wake of evolving Kentucky Department of Education COVID-19 guidance, KSBA offers information on the following two topics: (1) the new regulation for “quarantine leave” and (2) the new Executive Order (and coming regulation) for universal masking.

Quarantine Leave regulation

Last week the Kentucky Board of Education (KBE) approved an emergency regulation entitled “District Employee Quarantine Leave” which we expect will be filed soon. This regulation does not take effect and have the force of law until it is filed at the Legislative Research Commission. Please carefully review the regulation, at [702 KAR 1:191E](#). It states that each district **SHALL** provide paid quarantine leave to all eligible employees, if the employee 1) has been placed in quarantine by a medical professional, health department, school district, etc.; and 2) has been vaccinated against COVID-19 (or if they “present a statement from a treating medical professional that a disability prevents the employee from taking the COVID-19 vaccine, or is prevented from taking the COVID-19 vaccination based on sincerely held religious belief”). This emergency regulation will apply only during the 2021-2022 school year, and only relates to quarantine for COVID-19 and its variants.

Under this emergency regulation, the quarantine leave cannot be used if the employee is diagnosed as having an active COVID-19 infection. As explained during the KBE meeting, if a person tests positive for the infection they are therefore ill with COVID-19 and should use their sick days instead of quarantine leave. Once this is filed at LRC and in effect, the regulation will apply without local board action to require this leave for eligible employees, and so we at KSBA do not believe boards need to take any action at this time.

However, the regulation gives some discretion to local districts/boards on three issues which may require local action. The regulation says that:

1. “A school district, at its discretion, may determine quarantine leave is unnecessary when an employee can fulfill his or her job duties remotely during the quarantine period”; and
2. “In order to shorten the quarantine period, a school district may require an employee on quarantine leave to undergo a COVID-19 test at the district’s expense and provide the results to the district. Such test shall occur no sooner than the earliest date recommended by [CDC and state DPH] quarantine [guidelines](#). A district may require an employee testing negative for COVID-19 to return to work in accordance with [CDC and DPH] quarantine guidelines; and
3. “A school district may require the employee to provide written documentation from the entity placing the employee in quarantine.”

If a district/board wants to implement any of the three above options, we suggest that either a resolution should be adopted by the board indicating such, or at least adopt a motion to this effect in a meeting and record it in detail in the meeting minutes. A sample resolution is attached to this email. It is a word document so that you may edit this sample to suit the preferences of your board.

Note that a separate regulation that would be permanent and apply to other diseases was also approved by the KBE. We have some concerns about possible misuse/abuse of that regulation, but it will not be in effect for several months, giving us ample time to review it and submit comments and recommended changes.

Universal indoor mask mandate

As you are aware, the governor issued [Executive Order 2021-585](#) yesterday, mandating that all individuals must cover their mouths and noses with face coverings while indoors at all Kentucky public and private schools, regardless of vaccination status. There are some exemptions outlined in the order. We urge you to carefully read the full order. We believe that under current law this order carries the force of law and therefore should be followed as with any other law or regulation. Last session, the General Assembly passed several bills that made changes to the governor’s emergency powers, such as allowing such orders to only apply for 30 days unless the General Assembly acts on them. However, all these bills are currently being challenged in court and won’t go into effect as long as the lawsuit is pending. The Kentucky Supreme Court has heard arguments on the lawsuit, but it has not issued an opinion.

In addition to the order, the KBE will hold a [special meeting at 11:30 a.m. ET Thursday](#) to consider a new emergency regulation on this topic. That regulation will be 702 KAR 1:195E. We have not seen a draft of the proposed regulation, but we expect it will be similar to the order. If and when that regulation is approved and filed, it will also carry the force of law on its own, separate from the order. Tomorrow’s KBE meeting will be broadcasted live via the [KDE Media Portal](#).

After the KBE meeting, KDE staff will discuss all of these issues during the 2 p.m. ET Superintendents’ Webcast. We expect discussion to include enforcement issues regarding the mask mandate. The webcast will also be broadcasted live at the same Media Portal.

We hope this information is helpful as you strive to serve your local communities. Like with so many issues facing public education, pressure from all sides falls on the shoulders of local board teams. As a bedrock principle, KSBA supports local decision-making by local boards. Please contact KSBA if we can be of support to you and your district.

Thank you for your commitment to Kentucky’s public school students.
-KSBA staff