



FLOYD COUNTY BOARD OF EDUCATION
Anna Whitaker Shepherd, Superintendent
442 KY RT 550
Eastern, KY 41622
Telephone (606) 886-2354 Fax (606) 886-4550
www.floyd.kyschools.us

Linda C. Gearheart, Board Chair - District 1
William Newsome, Jr., Vice-Chair - District 3
Dr. Chandra Varia, Member - District 2
Keith Smallwood, Member - District 4
Steve Slone, Member - District 5

Issue Paper

Consent Agenda Item (Action Item): Consider and approve the Floyd County Virtual Academy Application for Waiver for the 22-23 School Year.

Applicable Statue or Regulations: KRS 162.90 Powers and Duties of the Local Board of Education

Fiscal/Budgetary Impact: All expenses associated with the Floyd County Virtual Program are being paid from ESSER Funding. No financial impact to the District's General Fund.

History/Background: The Floyd County Virtual Learning Academy serviced nearly 500 students during the 2021-22 School Year. Each year the local Board of Education must approve the K-5 component of Virtual Learning. Given the demand for Virtual Learning, the district wishes to re-apply for the continuation of the virtual learning program for the 2022-23 School Year. The attached descriptive narrative provides an overview of the program moving forward. The description outlines the need for the Virtual Academy while making it a more sustainable version.

Recommended Action: Approve the Application of Waiver for the 2022-23 School Year.

Contact Person(s):

Stacy Shannon
Principal

Brent Rose
Director

Anna W. Shepherd
Superintendent

Date: April 21, 2022

**Application of Waiver of
Kentucky Administrative Regulation
Kentucky Board of Education**



School District: Floyd County School District

As superintendent of the named school district, I am requesting a waiver under [KRS 156.160\(2\)\(a\)](#) of Section 1, subsections (1) and (4) of [702 KAR 7:125](#) promulgated by the Kentucky Board of Education related to Pupil Attendance. The waiver(s) is requested in order to allow for attendance-based virtual learning that might remove barriers that exist to improve learning.

These waiver requests were reviewed and approved at a meeting of my district's Board of Education on:

April 25, 2022

The approval is contained in the board minutes that are available for review at the district's central office. The original copy of this request is also available at the district's central office.

I understand that this waiver request is subject to the review and approval of the Kentucky Board of Education (KBE). I further understand that if the KBE approves the waiver request specifically detailed herein, this application and its contents shall become a binding memorandum of understanding (MOU) entered into by and between the named school district and the Kentucky Department of Education (KDE) and both parties will be bound by the terms, conditions, agreements and assurances contained in this document and any attachments thereto. By signing below, the Superintendent and Board Chair represents that they have fully reviewed the contents of this document and agree to be bound by all terms, conditions, agreements, and assurances contained herein if approved by the KBE.

By signing below, the Superintendent and Board Chair affirmatively state that all information contained herein is true and correct to the best of their information and belief, and that they possess authority to bind the school district to this application and MOU

Superintendent Signature

Kristina Springer
Print Name of Primary Point of Contact

Local Board Chair Signature

606-886-2354 kristina.springer@floyd.kysch
Point of Contact Phone and Email

April 25, 2022

Today's Date

This waiver request is only for the specific Section(s) named above. This request does not seek a waiver of any other Kentucky Administrative Regulation or of federal law.

702 KAR 7:125 Section 1(4) states:

Pupils shall be physically present in the school to be counted in attendance except under the following conditions:

The district is requesting a waiver of this language to include in the definition of "the school" to include a public virtual school, program, or academy, established by a Kentucky Public School District, where

instruction occurs using digital platforms, technologies, with continued access to certified teachers. Where each student is assigned full-time to the virtual school, program, or academy and there are teachers and other staff assigned to support and provide instruction (via the annual superintendent assurance regarding the Kentucky Digital Learning Guidelines). The virtual learning experience design shall allow for the monitoring of each student's interactions and engagement online, allows for synchronous (or live) visual and verbal interactions and the review of student work and completion of assignments in both real-time and on-demand (asynchronous interactions).

702 KAR 7:125 Section 1(1) states:

Daily attendance of pupils in elementary schools shall be determined by taking attendance one (1) time each day prior to the start of instruction and maintaining a pupil entry and exit log at each school.

The district is requesting that for any elementary school pupil that is enrolled full-time in a public virtual school, program, or academy daily attendance shall be determined by taking attendance twice a day: once at the beginning of instruction and once more in the second half of the school day (to account for full day or partial day funding mechanisms).

Virtual School, Program or Academy Information

Which best describes the virtual school, academy or program the district will operate as a result of the waivers described above? ([See school classifications](#))

School

A1 with separate principal and SBDM council (A school under administrative control of a principal or head teacher and eligible to establish a School-Based Decision Making Council. An A1 school is not a program operated by, or as a part of, another school.)

Program

A full-time program, typically an A5 classified program, where the students' primary enrollment resides. An A5 program may also be used as a secondary enrollment for students in some cases. (District-operated alternative program with no definable attendance boundaries designed to remediate academic performance, improve behavior, or provide an enhanced learning experience)

Academy

A "school within a school" model enabling students to be scheduled in a full-time virtual course load while retaining enrollment in their A1 school. (students are in a separate calendar within their A1 school)

What grade levels will your virtual school, academy or program serve as a result of the waiver described above?

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> Kindergarten | <input checked="" type="checkbox"/> 1st Grade | <input checked="" type="checkbox"/> 2nd Grade | <input checked="" type="checkbox"/> 3rd Grade |
| <input checked="" type="checkbox"/> 4th Grade | <input checked="" type="checkbox"/> 5th Grade | <input checked="" type="checkbox"/> 6th Grade | <input checked="" type="checkbox"/> 7th Grade |
| <input checked="" type="checkbox"/> 8th Grade | <input checked="" type="checkbox"/> 9th Grade | <input checked="" type="checkbox"/> 10th Grade | <input checked="" type="checkbox"/> 11th Grade |
| <input checked="" type="checkbox"/> 12th Grade | | | |

In Appendix A please detail, based on your selection above, how instruction will be delivered for students in the program, including, but not limited to descriptions of digital platforms, staff deployment

and collection of evidence of work and outcomes.

District Assurances

The district assures that:

1. Performance-Based virtual students included in the exception set forth at 702 KAR 7:125(1)(4)(g) shall not be covered by this waiver. The district shall continue to count Performance-Based virtual students in pupil attendance subject to all provisions of 702 KAR 7:125.
2. Attendance shall be tracked by a certified teacher at a course level for virtual middle and high school students covered by this waiver. Each course shall have attendance stored in the student information system attendance tables following KDE guidance. Attendance shall be tracked by a certified teacher at least two times each school day for fully virtual elementary school students with checks three hours apart. Each course shall have attendance stored in the student information system attendance tables following KDE guidance. These courses shall not be set up as virtual/performance-based courses.
3. Attendance clerks or other assigned district personnel shall reconcile attendance for each course/period to ensure proper codes are entered for absent students. Attendance events shall continue to be entered at the office level (i.e. Dr. Excuses/parent excuses). District understands and agrees that attendance information provided shall be subject to audit by KDE.
4. All truancy laws shall be followed for virtual students. District shall develop and implement policies to address virtual attendance absences, including the attendance status of students with an internet outage and the process to return students to in-person instruction for truancy violations, in addition to legal action which may be required by KRS 159.150, 159.180, and other applicable truancy laws.
5. Only students whose families have requested to be enrolled in the virtual school, program, or academy are included under this waiver, accompanied by school and district approved documentation resulting from locally adopted policies for enrollment. No student shall be involuntarily placed in the virtual school, program, or academy. No student shall be placed in the virtual school, program, or academy solely due to disciplinary reasons. The Admissions and Release Committee (ARC) of any student with an Individual Education Program (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA) shall document the students enrollment in the virtual school, program, or academy in the ARC Conference Summary.
6. All students shall be full-time enrolled in the virtual school, program, or academy.
7. Only students with determined appropriate digital access and support beyond the school campus shall be candidates for enrollment in the virtual school, program, or academy. The district shall establish and implement an application and on-boarding process to ensure students and families understand the expectations for full-time enrollment in a virtual school, program, or academy and a determination of candidacy. The district shall ensure all students enrolled in virtual school, program, or academy have appropriate digital access to fully participate in and access the virtual program.
8. The virtual school, program, or academy shall have teachers and other staff assigned to support and provide instruction aligned to the grade-level expectations established in the *Kentucky Academic Standards (KAS)*, including the selection, vetting, and usage of high-quality instructional resources aligned to the *KAS* and grade-level appropriate work. The use of standards-aligned high-quality instructional resources and curriculum is also assured via the annual

superintendent assurance regarding the [Kentucky Digital Learning Guidelines](#). District shall maintain evidence of having systemic formative assessment processes in place to: (1) accurately measure student progress on grade-level standards for students enrolled in a virtual school, program, or academy; and (2) support students enrolled in the virtual school, program, or academy needing accelerated learning on grade-level standards within Tier 1 universal instruction as well as those students who need more targeted Tier 2 and Tier 3 interventions and supports.

9. The virtual school, program, or academy shall implement synchronous (real-time or live) strategies and digital platforms for two-way student to teacher visual and verbal interactions. Additionally the virtual school, program, or academy shall utilize a learning management system (LMS) or other digital platforms that allows teachers to monitor student's progress, interactions and engagement with the teacher and other students online for the review of student work and completion of assignments in both real-time and on-demand (asynchronous interactions). District understands and that frequent live, regularly-scheduled contact with a Kentucky certified teacher is suggested to produce more effective results and assures that the virtual school, program, or academy implemented pursuant to waivers contained herein will prioritize frequent live, regularly-scheduled contact with a Kentucky certified teacher.
10. The district shall fully comply with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and all applicable laws and regulations for the education of students with disabilities. District shall fully implement accommodations and Individual Education Programs (IEP) for students with disabilities enrolled in a virtual school, program, or academy. District shall ensure that all Section 504 Teams and Admissions and Release Committees (ARC) were involved in determining how all special education, related services, and accommodations will be implemented for students with disabilities in the virtual setting.
11. The district shall ensure a system of high-quality professional learning on the high-quality instructional resources and on evidence-based instructional practices for virtual learning.
12. Fully virtual students shall be assigned a schedule that aligns with the standard day of in-person students. Virtual student schedules shall adhere to the standard day and hour requirements set forth at KRS 158.070.
13. District shall document all fully virtual students as non-transported for transportation funding purposes.
14. District understands that meals provided to students in a non-congregate setting for school year 2021-2022 are not eligible to receive reimbursement from the United States Department of Agriculture under the USDA School Meal Programs, absent approved USDA waivers. District shall review and consider how this may impact students enrolled in a virtual school, program, or academy pursuant to this waiver.
15. District understands that pursuant to KRS 156.010, the Commissioner of Education has authority for monitoring the management of school districts, including administration and finance, implementation of state and federal laws and regulations, and student performance. District understands that KRS 156.210 provides the Commissioner of Education with access to the papers, books and records of all teachers, superintendents, or other public-school officials. District hereby agrees that such authority specifically extends to all aspects of its operation of a virtual school, program, or academy pursuant to this waiver request and MOU. District hereby agrees that it shall ensure full and timely cooperation during any program review or audit of any aspect of its operation of a virtual school, program, or academy pursuant to this waiver request and MOU.

Appendix A - Plan Narrative

Duration

If approved by the KBE and signed by the Commissioner of Education or authorized designee, this MOU shall be effective beginning July 1, 2021 and shall continue in effect until June 30, 2022 or termination as provided herein, whichever occurs first.

Termination

Pursuant to KRS 156.160(2)(c), this MOU shall be subject to termination upon a determination by the Kentucky Board of Education that the school district has subsequently failed to meet the intent of the waiver and assurances contained herein. The parties agree that such a determination by the Kentucky Board of Education shall be final and binding on the parties hereto.

Commissioner of Education or Designee
Kentucky Department of Education

Date

Floyd County Virtual Learning Program

Descriptive Narrative

The Floyd County School District will utilize the Floyd County Learning Program during the 2022-23 School Year. The Program will service students in grades K-12. The Virtual Program will be limited to students that meet the above criteria as well as other criteria associated with state and local policies and procedures. The Virtual Program will be under the District umbrella and will be supervised by a District Principal assigned by the Superintendent. The program will be provided up to 7 certified staff members that will serve as either a guidance counselor, teacher and/or facilitator for classes in the general education setting. Note: Special Education students will receive Specially Designed Instruction from Special Education Teachers assigned to their home school.

Students in Grades Kindergarten through 5th grade will receive instruction via the district approved educational platform with assistance from the assigned district facilitators. Students in K-5 must report to the district teachers/facilitators at a minimum of two times per day for attendance purposes. Students in grades 6-12 will utilize the APEX Learning platform with the assistance of certified teacher/facilitators aiding as needed. Student attendance will be performance based, which requires students to complete all aspects of the course work. Students in grades 6-12 will utilize block scheduling and will complete 4 courses per semester. The Floyd County School District will provide a computer for each individual student as well as any other material needed for successful implementation of the program. Students and families must agree to the Floyd County Schools Acceptable Use Policy. Students should have reliable internet. In the event that reliable internet is not available the District may provide internet if applicable.

The virtual learning program is currently designed to assist students that are hesitant to return to school following the Covid-19 Pandemic and will be for the entire 2022-23 School Year, students may enter and leave the program at the end of a semester. For example, a student that enters the Virtual Program on the first day of the school year, must remain within the program until the end of the first semester.

Other enrollment requirements are listed below:

- Students must meet standards/academic performance on or above grade level.
- Students must work to meet proficiency benchmarks in reading and mathematics.
- Students must complete all Benchmark Assessments as well as state assessments as outlined by local and state policies and procedures. Those benchmark assessments will be in-person.
- Students must follow code of conduct and attendance expectations.
- Students must actively participate during live meets and maintain acceptable grades that ensure students are on track to graduate.
- Attendance shall be tracked by certified teachers as required within the Kentucky Board of Education Waiver related to Pupil Attendance.
- Truancy laws shall be followed within the Floyd County Virtual Learning Program. This includes normal absences as well as absences related to loss of internet.
- Students must complete all state assessments in-person.

Note: Students not meeting the standards and requirements addressed within this narrative will be exited from the Floyd County Virtual Learning Program and will need to return to in-person instruction at the school in the attendance area they reside within.