

## KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

**Topic:** Newly proposed regulation, 704 KAR 3:535, Full-time enrolled online, virtual and remote programs.

**Date:** August 2022

**Action Requested:**  Review  Action/Consent  Action/Discussion

**Held In:**  Full Board  Curriculum, Instruction and Assessment  Operations

### SUMMARY OF ISSUE BEFORE THE BOARD:

To take action on the proposed new regulation, 704 KAR 3:535, Full-time enrolled online, virtual and remoting learning programs, in order to establish minimum requirements for the operation of full-time enrolled online, virtual and remote learning programs in school districts.

### COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends approval of the proposed new regulation to establish minimum requirements for the operation of full-time enrolled online, virtual and remote learning programs in school districts.

### APPLICABLE STATUTE OR REGULATION:

KRS 156.070, KRS 156.160, KRS 160.380, KRS 160.345, KRS 158.6451, KRS 158.4416, 704 KAR 3:535, 702 KAR 7:125

### BACKGROUND:

#### *Existing Policy:*

KRS 156.070 authorizes the Kentucky Board of Education management and control of programs operated in the common schools. KRS 156.160 authorizes the Kentucky Board of Education to promulgate administrative regulations establishing standards which school districts shall meet in program service to students.

704 KAR 3:535 is a proposed new administrative regulation that will serve as the program standards for full-time enrolled online, virtual and remote learning programs grades Kindergarten through grade 12. This new regulation would work in conjunction with proposed modifications to 702 KAR 7:125 providing the needed funding mechanism to implement the program standards.

#### *Summary of Issue:*

Kentucky has recognized full-time enrollment in online, virtual, and remote programs for the greater part of two decades. The design construct has been virtual and performance-based courses authorized by 704 KAR 3:305 Section (4) (3) in grades five through twelve, while only offering a pass/fail funding option. To provide districts with greater flexibility during the COVID-19 pandemic in order to meet the needs of students and their communities, the KBE approved an additional temporary option for full-time enrollment in online, virtual, and remote programs through the pupil attendance regulation waiver (SY 21-22 and SY 22-23). This waiver provided an additional funding mechanism as well as program standards for high-quality learning

experiences for students. Over this two year process, the KDE has partnered with participating school districts to learn more about long term, high-quality design elements as well as the potential impact.

Innovative learning experiences, as evidenced by these designs, are active examples of KDE's United We Learn vision for the future of public education in Kentucky. These experiences provide students a customized learning path with the opportunity to demonstrate learning by tackling authentic challenges through co-creation with the larger school community.

The KDE has received informative qualitative and quantitative data directly from participating districts participating in the attendance waiver process. This data has helped shape formal recommendations on next steps as well as provided districts with critical data guiding implementation of policies and practices to maximize teacher effectiveness. The KDE continues to receive targeted feedback from the Commissioner's Superintendent Advisory Council, Principal Advisory Council, and the Commissioner's Student Advisory Council.

With collaboration and feedback from all offices of the KDE, Office of Education Technology, Office of Teaching and Learning, and Office of Financial Operations have prepared a proposed Kentucky Administration Regulation (KAR), for KBE consideration, as a stable and sustainable option for full-time enrolled online, virtual and remote learning programs. The proposal targets establishing high-quality design elements for programs as well as a sustainable funding mechanism through the proposed modifications in 702 KAR 7:125.

*Budget Impact:*

Little to no budget impact is expected for local school districts or the Kentucky Department of Education as a result of this new administrative regulation. There is no direct cost associated with this regulation for local school districts to design and implement an online, virtual and remote learning program. However, locally made decisions on the type of resources and supports for the program could impact local budgets. While this regulation is not designed for revenue generation for either local school districts or the KDE, a district offering this program could see new revenue from net new enrollment (for example, homeschooled students that were previously unenrolled in the district).

**GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:**

- This original waiver proposal was discussed with Superintendents at the Superintendent Webcast on April 13, 2021 and approved by the KBE during a special meeting on May 18, 2021.
- A voluntary survey to 2021-2022 approved districts opened January 11, 2022 and closed February 3, 2022. 104 of 144 districts responded (72%). Of the 104 responses, 84 districts indicated actively utilizing the waiver. Of the 20 districts not currently utilizing the waiver, 18 indicated they would apply or consider applying for the waiver if made available for the 2022-2023 school year.
- A request to extend the pupil attendance waiver for the 2022-2023 school year was presented and approved by the KBE during the April 2022 regular meeting.
- An in depth and interactive discussion was requested by the KBE and engaged in at the June 2022 regular meeting.
- As of July 5, 2022, 57 districts have submitted a waiver for the 2022-2023 school year.
- A presentation regarding the proposed regulation is scheduled to go before the SCAAC prior to the August 2022 regular KBE meeting.

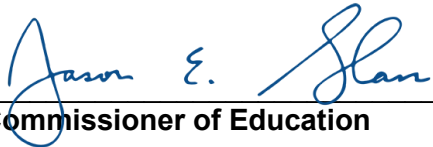
- The proposed regulation is scheduled to go before the LSAC just prior to the August 2022 regular meeting and their approval and/or recommendations will be shared.

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**Commissioner of Education**

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