

1 EDUCATION AND LABOR CABINET

2 Kentucky Board of Education

3 Department of Education

4 (New Administrative Regulation)

5 704 KAR 3:535. Full-time enrolled online, virtual, and remote learning programs.

6 RELATES TO: KRS 156.070, 156.160, 160.380, 160.345, 158.6451, 158.4416

7 STATUTORY AUTHORITY: KRS 156.070, 156.160

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 authorizes the Kentucky Board

9 of Education management and control of programs operated in the common schools. KRS 156.160

10 authorizes the Kentucky Board of Education to promulgate administrative regulations establishing

11 standards which school districts shall meet in program service to students. This administrative

12 regulation establishes minimum requirements for the operation of online, virtual and remote

13 learning programs in school districts for grades Kindergarten through grade 12.

14 Section 1. Definitions.

15 (1) "Full-Time Enrolled Online, Virtual and Remote Learning Program" is defined as a public

16 school district program that enrolls K-12 students on a full-time basis, where teachers and students

17 are not in the same physical location and all or most of the instruction is provided online through

18 a combination of synchronous and asynchronous learning strategies. A full-time enrolled online,

19 virtual and remote learning program shall not be classified as an alternative education program as

20 set forth in 704 KAR 19:002.

- 1 (2) "Child with a disability" is defined by 707 KAR 1:002, Section 1.
- 2 (3) "Individual education program" or "IEP" is defined by 707 KAR 1:002, Section 1.
- 3 (4) "Individual learning plan" or "ILP" is defined by 704 KAR 19.002, Section 1.
- 4 (5) "Voluntary placement" means the placement of a student in an online, virtual and remote
5 learning program at the request of the parent or emancipated student and with the approval of the
6 school district to:
- 7 (a) ensure the health and safety of the individual student including the social, emotional, and
8 mental health needs of the learner; and
- 9 (b) meet the educational needs of the student.
- 10 (6) "Virtual Performance-Based" means course setup and attendance verification per 702 KAR
11 7:125, (1)(4)(g); 704 KAR 3:305(7). Performance-Based virtual students included in the exception
12 set forth at 702 KAR 7:125(1)(4)(g) shall not be covered by this administrative regulation.
- 13 (7) "Synchronous learning" means forms of education, instruction, and learning that occur at the
14 same time through a variety of strategies and tools.
- 15 (8) "Asynchronous learning" means forms of education, instruction, and learning that do not
16 require interaction with others to occur at the same time through a variety of strategies and tools.
- 17 Section 2. Program Requirements. (1) For any full-time enrolled online, virtual and remote
18 program it operates, school districts shall ensure that:
- 19 (a) All of the education services and requirements as a physical school to fully support the
20 academic, social, emotional, and mental health needs of the learner are provided.
- 21 (b) The online, virtual and remote learning program meets the requirements set forth in 704 KAR
22 3:305;
- 23 (c) The online, virtual and remote learning program is aligned to the academic and curricular
24 requirements of the district.

1 (d) A student enrolled in a full-time enrolled online, virtual and remote learning program shall be
2 eligible to participate in one (1) or more types of programs to address student learning needs which
3 shall include credit acceleration, credit accumulation, and an innovative path to graduation.

4 (2) Each local board of education shall adopt and annually review policies and procedures for the
5 operation of each full-time enrolled online, virtual and remote learning program within the district.

6 Locally-adopted policies and procedures shall include the:

7 (a) Purpose of the program, including the ways the program supports the district's postsecondary
8 readiness goals for students;

9 (b) Locally defined eligibility criteria, as appropriate;

10 (c) Procedures for enrolling students in the program, including procedures to ensure voluntary
11 placement;

12 (d) Procedures for transitioning students out of the program;

13 (e) Procedures for the development and implementation of student ILPs as required by 704 KAR
14 3:305; and

15 (f) Implementation of an application and on-boarding process to ensure students and families
16 understand the expectations for students in a full-time enrolled online, virtual, and remote learning
17 program and a determination of candidacy.

18 (g) Only students with determined appropriate digital access and support beyond the school
19 campus shall be candidates for enrollment in the virtual school, program, or academy. The district
20 shall ensure all students enrolled in virtual school, program, or academy have appropriate digital
21 access to fully participate in and access the online, virtual, and remote learning program.

22 (3) Full-time enrolled online, virtual and remote learning program curriculum shall be aligned with
23 the Kentucky Academic Standards established in 704 KAR 3:303, 704 KAR Chapter 8, and the
24 student learning goals in the ILP.

1 (4) Each student enrolled in a full-time enrolled online, virtual and remote learning program shall
2 be subject to the minimum graduation requirements established in 704 KAR 3:305 and any
3 additional local district graduation requirements.

4 (5) Each student enrolled in a full-time enrolled online, virtual and remote learning program shall
5 participate in the state-required assessment program and be included in the state accountability
6 system as set forth in 703 KAR Chapter 5.

7 (6) A full-time enrolled online, virtual and remote learning program shall be subject to all
8 applicable requirements of 703 KAR 5:225 and Kentucky's Consolidated State Plan implementing
9 the Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds
10 Act of 2015, or its successor.

11 (7) Each student participating in a full-time enrolled online, virtual and remote learning program
12 shall be eligible to access extracurricular activities and programs as allowed by local district and
13 school council policies and by 702 KAR 7:065.

14 (8) Each student enrolled in a full-time enrolled online, virtual and remote learning program shall
15 have access to instructional and support resources and services available to other students in the
16 district, which shall include instructional materials, tutoring, intervention, and counseling services,
17 in furtherance of each student's educational program as determined through the development of
18 the ILP.

19 (9) The school district shall document each student enrolled in a full-time enrolled online, virtual,
20 and remote learning program as non-transported in the state student information system for
21 transportation funding purposes.

22 Section 3. Placement of Students. (1) Enrollment of any student in a full-time enrolled online,
23 virtual and remote learning program shall be a voluntary placement.

1 (2) A student entering an online, virtual and remote learning program shall meet the eligibility
2 requirements for the program established by the local board pursuant to Section 2 of this
3 administrative regulation.

4 (3) Voluntary placement of a child with a disability in a full-time enrolled online, virtual, and
5 remote learning program shall be made through the Admissions and Release Committee (ARC)
6 pursuant to 707 KAR 1:320. The ARC shall document the student's voluntary placement in the
7 full-time enrolled online, virtual, and remote learning program in the ARC Conference Summary.

8 (a) The voluntary placement decisions for a student who has been identified under 29 U.S.C. §794,
9 Section 504 of the Rehabilitation Act of 1973, as amended, shall be made through a team process
10 consistent with the applicable requirements outlined in 34 C.F.R. Part 104.

11 (b) District shall fully implement any accommodation required by 29 U.S.C. §794, Section 504 of
12 the Rehabilitation Act of 1973, as amended and any IEP for a child with a disability in a full-time
13 enrolled online, virtual and remote learning program. The district shall ensure the Section 504
14 Team and Admissions and Release Committee (ARC) was involved in determining how all special
15 education, related services, and accommodations shall be implemented for a child with a disability
16 in the full-time enrolled online, virtual and remote learning program.

17 Section 4. Costs and Expenditures. (1) Each district shall use the statewide financial management
18 system and chart of accounts to track costs and expenditures associated with each full-time
19 enrolled online, virtual and remote learning program operating in the district.

20 Section 5. Data. (1) Each district shall utilize the student information system to enter data regarding
21 each student in a full-time enrolled online, virtual and remote learning program.

22 (2) Data collected shall include demographic, programmatic, or other data fields contained in the
23 student information system or required by the department to track and report student enrollment,

1 educational programming, achievement, and transition to and from enrollment in the full-time
2 enrolled online, virtual and remote learning programs.

3 Section 6. Personnel. (1) Full-time enrolled online, virtual and remote learning program teachers
4 and administrators shall be subject to the teacher certification requirements established in KRS
5 161.020, and shall comply with the classified and certified assignment restrictions established in
6 KRS 160.380(3).

7 (2) The district shall ensure a system of high-quality professional learning on the high-quality
8 instructional resources and on evidence-based instructional practices for virtual learning.

9 Section 7. Class Size. (1) Full-time enrolled online, virtual and remote learning programs shall
10 meet the requirements set forth in KRS 157.360 and 702 KAR 3:190 for maximum class sizes and
11 exemptions thereto.

12 Section 8. Student Attendance. (1) Students in a full-time enrolled online, virtual, and remote
13 learning program authorized by this regulation shall be counted in attendance.

14 (2) Attendance for students in a full-time enrolled online, virtual, and remote learning program
15 authorized by this regulation shall be collected as follows:

16 (a) Attendance shall be recorded at the course level for virtual middle and high school students
17 by certified teachers;

18 (b) Attendance shall be recorded at least two times each school day for virtual elementary school
19 students with checks three hours apart by certified teachers;

20 (c) Attendance for each course shall be recorded in the student information system attendance
21 tables;

22 (d) Courses shall not be set up as virtual/performance-based;

1 (e) Attendance clerks or other assigned district personnel shall reconcile attendance for each
2 course/period to ensure proper codes are entered for absent students. Attendance event absence codes
3 shall be entered at the office level (i.e. Dr. Excuses/parent excuses); and

4 (f) District online, virtual, and remote learning program attendance records shall be subject to audit by
5 the Kentucky Department of Education.

6 (3) Students in a full-time enrolled online, virtual and remote learning program shall be subject to
7 the compulsory attendance laws set forth in KRS 159.150 and 159.180. School districts operating
8 a full-time enrolled online, virtual and remote learning program shall develop and implement
9 policies to address attendance absences, which shall include:

10 (a) the attendance status of students with an internet outage;

11 (b) the process to return students to in-person instruction for truancy violations; and

12 (c) the district process for actions it shall take pursuant to KRS Chapter 159 for truant students.

13 Section 9. Curriculum, Content, and Instruction. (1) The full-time enrolled online, virtual and
14 remote learning program shall provide instruction aligned to the grade-level expectations
15 established in the Kentucky Academic Standards at 704 KAR 3:303 and 704 KAR Chapter 8,
16 including the selection, vetting, and implementation of high-quality instructional resources aligned
17 to the Kentucky Academic Standards and grade-level appropriate assignments. Districts shall
18 maintain evidence of having systemic formative assessment processes in place to:

19 (a) Accurately measure student progress on grade-level standards for students enrolled in a full-
20 time enrolled online, virtual and remote learning program; and

21 (b) Support students enrolled in the full-time enrolled online, virtual and remote learning program
22 needing accelerated learning on grade-level standards within universal instruction as well as those
23 students who need more targeted interventions and supports.

1 (2) The full-time enrolled online, virtual and remote learning program shall implement
2 synchronous learning strategies and digital platforms for two-way visual and verbal interactions.
3 Additionally, the full-time enrolled online, virtual and remote learning program shall utilize a
4 learning management system (LMS) or other digital platforms that allows teachers to monitor
5 student's progress, interactions and engagement with the teacher and other students online for the
6 review of student work and completion of assignments through both synchronous and
7 asynchronous interactions.

8 (3) Students in a full-time enrolled online, virtual and remote learning program shall be assigned
9 a schedule that aligns with the standard day of in-person students. Virtual student schedules shall
10 adhere to the standard day and hour requirements set forth at KRS 158.070.

11 (4) The full-time enrolled online, virtual and remote learning program shall ensure attainment of
12 the declarations and goals set forth by KRS 158.6451.

13 (5) Students in the full-time enrolled online, virtual and remote learning program shall receive
14 access to the essential workplace ethics programs, including characteristics critical to success in
15 the workplace, as established in KRS 158.1413.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

(Date)

Jason E. Glass, Ed.D.
Commissioner of Education

(Date)

Lu S. Young, Ed.D., Chairperson
Kentucky Board of Education