

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: 702 KAR 3:330, Liability Insurance Regulation

Date: October 2023

Action Requested: Review Action/Consent Action/Discussion

Held In: Full Board State Schools United We Learn

SUMMARY OF ISSUE BEFORE THE BOARD:

To take action on the promulgation of a new regulation requiring school districts to provide primary liability insurance coverage to certified employees and for the Kentucky Department of Education (KDE) to provide excess liability insurance pursuant to KRS 160.105 and 161.212.

COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends approval of the proposed new regulation, 702 KAR 3:330, Liability Insurance.

APPLICABLE STATUTE OR REGULATION:

KRS 160.105 and 161.212.

BACKGROUND:

Existing Policy:

Currently, school districts may provide employees with liability insurance for liability occurring in the course and scope of employment. Senate Bill 3 enacted during the 2023 Regular Session of the General Assembly and codified at KRS 160.105 and 161.212 requires the Kentucky Board of Education (KBE) to promulgate an administrative regulation mandating school districts provide primary liability insurance for all certified employees. Further, KDE is required to provide excess liability coverage for the covered employees no later than July 1, 2024, in an amount not less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate for each certified employee inclusive of legal fees. If the certified educators' association with the largest number of members in Kentucky provides more comprehensive coverage than the aforementioned amounts, then KDE is required to provide at least equivalent coverage. Because this is required by KRS 162.212, it is not included in the proposed regulation.

Summary of Issue:

In order to meet the July 1, 2024, deadline imposed by KRS 161.212 for KDE to provide excess liability insurance, the KBE must begin the administrative regulation promulgation process to promulgate a regulation that complies with the statutory requirements that districts provide liability insurance to certified employees and for the KDE to provide excess liability insurance.

Budget Impact:

There will be an unknown impact to KDE's budget. Pursuant to KRS 161.212, KDE must provide excess liability insurance for all covered school district employees. KDE will survey local school districts regarding the costs associated with providing liability insurance to certified

employees. KDE will use this information in the solicitation process to establish program cost. In order for KDE to provide the excess statutorily required insurance, it will be necessary for the General Assembly to provide additional funding in the next biennial budget.

Local school districts that currently provide liability insurance in compliance with KRS 160.212 should not experience any additional costs. A district not currently providing liability insurance will have to incur the cost of providing such insurance to all certified employees.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

The proposed regulation was reviewed by the Local Superintendents Advisory Council at their July 25, 2023 meeting where it was deferred and revised for October 2023 KBE meeting. The revised regulation will be reviewed at the LSAC's October 10, 2023 meeting prior to review by the KBE.

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Commissioner of Education

Category: <input type="checkbox"/> Educator Workforce Diversity <input type="checkbox"/> Portrait of a Graduate Partnerships <input type="checkbox"/> Racial Equity Commitment <input type="checkbox"/> Student-Centered Accountability System <input type="checkbox"/> Early Childhood <input checked="" type="checkbox"/> District Support
