

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (New Administrative Regulation)

5 702 KAR 3:330. Liability Insurance.

6 RELATES TO: KRS 161.212

7 STATUTORY AUTHORITY: KRS 156.070, 156.160

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 and 156.070 require the

9 Kentucky Board of Education to promulgate administrative regulations concerning the
10 management of the school districts. KRS 160.105 requires the Kentucky Board of Education to
11 promulgate regulations to require school districts to provide each certified employee with primary
12 liability insurance coverage. KRS 161.212 requires the Kentucky Board of Education to
13 promulgate administrative regulations to implement requirements for the Educators Employment
14 Liability Insurance Program.

15 Section 1. School District Certified Employee Liability Insurance. Beginning with the 2024-2025
16 school year, each school district shall provide each certified district employee with primary
17 liability insurance coverage for the protection of the employee from liability arising in the course
18 and scope of pursuing the duties of employment in an amount not less than one million dollars
19 (\$1,000,000).

20 Section 2. Educators Employment Liability Insurance Program. (1) By October 1 of each year,
21 each school district shall provide the Kentucky Department of Education, in the format determined
22 by the department, with the following:

23 a. The name of the district's insurance carrier providing primary liability insurance coverage

- 1 for each certified employee for liability arising in the course and scope of employment;
- 2 b. Verification that the amount of liability coverage provided to each certified employee is at
- 3 least equal to one million dollars (\$1,000,000);
- 4 c. The number of covered certified employees under the district's primary liability insurance
- 5 policy;
- 6 d. Whether there has been any change in coverage from the previous reporting year; and
- 7 e. If the district has excess liability insurance to the primary liability insurance for certified
- 8 employees, the name of the carrier and the amount of excess coverage.

9 (2) The school district shall immediately notify the Kentucky Department of Education if the

10 district's primary liability insurance policy that provides coverage to certified employees is

11 cancelled during the policy term.

12 (3) In the event, the school district's primary liability insurance policy that provides coverage to

13 certified employees is canceled during the policy term, the district shall procure alternative liability

14 insurance coverage for each certified employee and shall notify the Kentucky Department of

15 Education of the terms of the replacement liability insurance, including the name of the carrier, the

16 amount of coverage and the number of certified employees covered under the policy.

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)

Commissioner of Education

(Date)

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

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on XXXX at 10:00 am, in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through XXX. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, KY 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

702 KAR 3:330

Contact Person: Todd G. Allen, Todd.allen@education.ky.gov

Phone Number: 502-564-4474

(1) Provide a brief summary of:

(a) What this administrative regulation does:

The proposed regulation requires school districts to provide certified employees with primary liability insurance pursuant to KRS 160.105, and sets forth the requirements of the Educators Employment Liability Insurance Program established in KRS 161.212.

(b) The necessity of this administrative regulation:

The proposed regulation is required pursuant to KRS 160.105 and 161.212.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

The proposed regulation requires school districts to provide primary liability insurance for all certified employees as required by KRS 160.105. It further sets forth the information reporting necessary for the Educators Employment Liability Insurance Program which provides certified employees with excess liability insurance coverage.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This regulation will require school districts to provide certified employees with primary liability insurance and creates the program requirements necessary for the Kentucky Department of Education to provide excess liability insurance for school district certified employees.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

N/A.

(b) The necessity of the amendment to this administrative regulation:

N/A.

(c) How the amendment conforms to the content of the authorizing statutes:

N/A.

(d) How the amendment will assist in the effective administration of the statutes:

N/A.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

School district certified employees, local school districts and the Kentucky Department of Education.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Local school districts will have to provide certified employees with primary liability insurance coverage. It is believed that most districts currently provide certified employees with liability insurance coverage. Any district that does not will have to procure coverage compliant with the KRS 161.105 and this regulation. Further, the Kentucky Department of Education will procure

excess liability insurance for school district certified employees through a competitive process. The regulation establishes the information reporting necessary for the Kentucky Department of Education to procure the excess coverage.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Local school districts will bear the cost of procuring the primary liability insurance. It is believed that most, if not all districts provide such coverage to certified employees. The Kentucky Department of Education will incur the cost of providing excess insurance for certified employees. The costs of providing the insurance is unknown at present.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

School district certified employees will have liability insurance protection from liability arising in the course and scope of their employment.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially:

There will be an unknown initial cost to all local school districts in providing the primary insurance coverage to certified employees. Many school districts currently provide liability insurance coverage to employees. Thus, there may be no new cost to districts. There will be an unknown initial cost to the Kentucky Department of Education to provide the excess liability insurance.

(b) On a continuing basis:

There will be an unknown continuing cost to all local school districts in providing the primary insurance coverage to certified employees. Many school districts currently provide liability insurance coverage to employees. Thus, there may be no new cost to districts. There will be an unknown continuing cost to the Kentucky Department of Education to provide the excess liability insurance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

General Funds

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment:

Additional funding to the Kentucky Department of Education will be necessary to provide the excess liability insurance required pursuant to KRS 161.212.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

There are no fees associated with the proposed regulation.

(9) TIERING: Is tiering applied? **Explain why tiering was or was not used.**

Tiering is not applied. The proposed regulation is uniformly applicable to all school districts.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

702 KAR 3:330

Contact Person: Todd G. Allen, Todd.allen@education.ky.gov

Phone Number: 502-564-4474

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Department of Education and local school districts.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 160.105 and 161.212.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

The proposed regulation does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

The proposed regulation does not generate revenue.

(c) How much will it cost to administer this program for the first year?

The costs are currently unknown.

(d) How much will it cost to administer this program for subsequent years?

The costs are currently unknown.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

Local school districts will incur costs associated with procuring and providing primary liability insurance for certified employees. It is believed that many, if not all, districts provide such insurance for employees. As a result, districts may incur no new costs to provide the liability insurance. The Kentucky Department of Education will incur costs associated with providing the excess insurance for covered employees. The department does not yet know the costs of excess insurance but expects to have a better idea once a solicitation process is conducted.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

The proposed regulation is required pursuant to KRS 160.105 and 161.212. It requires local school districts to purchase primary liability insurance of not less than one million dollars (\$1,000,000) for all certified employees for liability within the course and scope of employment. It is believed that most, if not all, districts already provide employees with this coverage. As such, districts may not experience any additional costs in procuring the required coverage. The financial costs to districts in requiring obtaining this insurance is unknown but believed to exceed \$500,000. Further, KRS 161.212 requires the Kentucky Department of Education to purchase excess liability in the amount of one million dollars per occurrence and three million dollars (\$3,000,000) for each covered certified employee. The insurance is to be obtained through contract with an insurance agency. While the cost to the department is currently unknown, it is expected that it will exceed five hundred thousand dollars (\$500,000).

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

1) List a summary of each item included in the material incorporated by reference [KRS 13A.224-13A.2267]

2) Continue listing items until summary is complete.
No materials are incorporated by reference.