

## KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

**Topic:** Edmonson County Board of Education Request for Waiver of 702 KAR 4:050

**Date:** February 2025

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

**Held In:** ☒ Full Board ☐ State Schools ☐ United We Learn

### SUMMARY OF ISSUE BEFORE THE BOARD:

Pursuant to KRS 156.160(2), the Edmonson County Board of Education requests a waiver to 702 KAR 4:050 Section 4(4)(b) to acquire property with a power line easement that traverses the site for the construction of a new school to replace the existing Kyrock Elementary School.

### COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve the request for a waiver.

### APPLICABLE STATUTE OR REGULATION:

KRS 156.160(2) states:

(a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-1997 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

702 KAR 4:050 Section 4(4)(b) states in relevant part: "Plat by registered surveyor indicating property boundaries, acreage, road access, easements, and certification that property is above the 100-year flood plain. The property shall not have easements traversing the site. Easements are allowable along perimeter. Commitments to relocate easement from traversing site to perimeter shall be considered."

**BACKGROUND:***Existing Policy:*

Easements, especially those that traverse, i.e. run through a site, have the potential to reduce the ability to develop property. To minimize this risk, easements can be relocated to the perimeter of the property.

*Summary of Issue:*

The district proposes to acquire a site for the construction of a new elementary school to replace the existing Kyrock Elementary School (District Facility Plan Priority 2b.1 - New construction to replace inadequate spaces: expand existing or new buildings for educational purposes; consolidate schools; or replace deteriorated facilities). The property consists of two parcels totaling approximately 54 acres. A portion of the site is located directly across the highway from the existing school. An electric power line owned by Warren Rural Electric Cooperative Corporation (RECC) traverses the site and has a 100-foot wide right of way easement associated with it.

The district has provided a schematic site plan that demonstrates that the easement will not prevent the district from developing the project for the intended purpose.

*Budget Impact:*

There is no impact on the Kentucky Department of Education's budget.

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

The Kentucky Department of Education District Facilities Branch has reviewed the necessary documentation submitted by the district pursuant to 702 KAR 4:050 and communicated with the district throughout the review process.

**CONTACT PERSON(S):**

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**Commissioner of Education**

Category: ☐ Educator Workforce Diversity ☐ Portrait of a Graduate Partnerships ☐ Racial Equity  
Commitment ☐ Student-Centered Accountability System ☐ Early Childhood ☒ District Support