

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Laurel County Board of Education Request for Waiver of 702 KAR 7:140 Section 4(1)

Date: June 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 Laurel County Board of Education requests a waiver of the requirement in 702 KAR 7:140 Section 4(1) which provides that “[a] school district shall not be granted an emergency day waiver unless the district has missed more than twenty (20) regular student attendance days district-wide” and that the “district shall make up at least the first twenty (20) regular student attendance days missed in a school year by adding these equivalent hours back into the school calendar.”

COMMISSIONER’S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve the local board’s request to waive the following requirements in 702 KAR 7:140 Section 4(1): “[a] school district shall not be granted an emergency day waiver unless the district has missed more than twenty (20) regular student attendance days district-wide” and “[t]he local school district shall make up at least the first twenty (20) regular student attendance days missed in a school year by adding these equivalent hours back into the school calendar.”

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 1996-97 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 7:140 states:

Section 4. Emergency Day Waiver.

(1) A school district shall not be granted an emergency day waiver unless the district has missed more than twenty (20) regular student attendance days district-wide and the district has demonstrated that an extreme hardship would result if the district is not granted an emergency day waiver. The local school district shall make up at least the first twenty (20) regular student attendance days missed in a school year by adding these equivalent hours back into the school calendar.

(2) A local board of education request for a district-wide emergency day waiver shall be submitted to the commissioner for approval. A copy of the local board order shall accompany this request. An approved emergency day waiver shall be the length of the student attendance day established in the approved calendar.

BACKGROUND:

Laurel County was impacted by the deadly tornado that occurred on May 16-17, 2025. As of May 16, 2025, only one of the district's schools had completed 1,062 hours of instruction. The following table shows the number of instructional hours each of the district's schools still need to complete:

School	Instructional hours as of 5/16/25	Number of hours short
Bush Elementary School	1,010	52
Camp Group Elem	1,010	52
Cold Hill Elem	1,010	52
Colony Elem	1,010	52
Hazel Green Elem	1,037	25
Hunter Hills	1,010	52
Johnson Elem	1,010	52
Keavy Elem	1,010	52
LCSC	1,023	39
Day Treatment	1,023	39
London Elem	1,050	12
McDaniel Learning	1,029	33
North Laurel High	1,026	36
North Laurel Middle	1,063	0
South High	1,018	44
South Middle	1,050	12
Sublimity Elem	1,010	52
Wyan-Pine Grove	1,010	52

The district needs to complete eight (8) student attendance days to reach 1,062 hours of instruction for all its schools.

House Bill 241 (Regular Session 2025) Section 1(5) states:

(5) If a local school district is unable to provide the required 1,062 hours of instruction by June 4, 2025, the commissioner of education may waive up to five student attendance days. The commissioner of education shall not waive instructional days for a district that did not make up days by adding time to the student instructional day. Notwithstanding any other statute or administrative regulation to the contrary, student attendance days waived under this subsection shall be applied on a district-wide basis.

The Commissioner will waive five student attendance days pursuant to House Bill 241 Section 1(5). However, this will not result in the district reaching 1,062 hours of instruction. The district still needs to complete three (3) student attendance days to reach 1,062 hours of instruction.

The district does not believe that it can return to in-person or alternative instruction. The district reports that many students and staff have had homes damaged by the tornado and the community has suffered significant damage. The district is concerned about its ability to staff schools and transport students if it were to return to in-person instruction and does not believe that alternative instruction is an option due to internet outages and the overall need of students, staff, and the community to focus on recovery from the damage. It is unknown how long recovery efforts will take.

702 KAR 7:140 Section 4(1) provides that “[a] school district shall not be granted an emergency day waiver unless the district has missed more than twenty (20) regular student attendance days district-wide” and that the “district shall make up at least the first twenty (20) regular student attendance days missed in a school year by adding these equivalent hours back into the school calendar.” The local board is requesting a waiver from this twenty (20) day requirement which will permit the Commissioner to approve an emergency day waiver for three (3) student attendance days.

Budget Impact:


There is no impact on KDE’s budget.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

KDE has communicated with the district regarding its request for a waiver.

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