

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Expiration of Administrative Regulations Pursuant to KRS 13A.3102

Date: October 2025

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

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

SUMMARY OF ISSUE BEFORE THE BOARD:

KRS 13A.3102 provides that administrative regulations “shall expire seven (7) years after their last effective date,” unless certified by the agency to remain in effect. Upon review, KDE staff determined that the regulations detailed in this staff note are no longer necessary for the operation of programs under the control of the Kentucky Board of Education.

COMMISSIONER’S RECOMMENDATION:

The Commissioner recommends that the board take action to allow the regulations detailed in this staff note to expire in November 2025.

APPLICABLE STATUTE OR REGULATION:

KRS 13A.3102 and 13A.3104.

BACKGROUND:

Existing Policy:

The Kentucky Department of Education tracks all administrative regulations of the Kentucky Board of Education (KBE) and reports their status to the KBE on the Hearing Officer’s Report at each regular KBE meeting. The KBE has approximately 195 active administrative regulations which govern the various programs and services under the administrative control of the KBE. These regulations govern not only school district operations, but also how KDE will administer programs.

In 2017, the Kentucky General Assembly passed laws calling for agencies to routinely review their administrative regulations. Specifically, KRS 13A.3102 and 13A.3104 were passed. KDE frequently reviews and brings administrative regulations to the KBE for amendment, and sometimes complete repeal. However, KRS 13A.3102 provides that an administrative regulation “shall expire seven (7) years after its last effective date,” unless certified by the agency to remain in effect. Simply put, if a regulation has not been amended or certified to remain effective within a 7 year period, it will expire and become ineffective.

The Hearing Officer’s Report contains a section which reports to the KBE each regulation that will expire within the next 12 months. This triggers a review by the responsible program area to determine whether the regulation is in need of amendment, should be certified to remain effective in its current form, or should be permitted to expire.

Summary of Issue:

KDE staff completed a thorough review of the following administrative regulations that are scheduled for expiration in November 2025 and January 2026. Following review, KDE staff identified the following regulations as no longer necessary for the operation of programs under the control of the KBE. Therefore, KDE staff recommend that these regulations be allowed to expire and become ineffective in November 2025 and January 2026:

701 KAR 5:140, Districts of innovation: This regulation governed the Districts of Innovation program. This program was removed from the Kentucky Revised Statutes under Senate Bill 207 (2025). As such, the regulation is no longer necessary and should be allowed to expire.

702 KAR 7:130, Approval of innovative alternative school calendars: This regulation lists the statutory authority as a budget bill from 2010, 2010 ES Ky. Acts ch. 1, Part I,C,3(17). Therefore, this regulation is no longer necessary.

702 KAR 1:150, Employment of KTRS retiree in full-time position: This regulation establishes the procedures for local school districts to follow to determine whether other qualified applicants are available to fill a teaching or nonteaching position, and if not, for filling the position with a retired member. House Bill 441 (Regular Session 2025) amended KRS 161.605 to remove language requiring the KBE to promulgate a regulation regarding establishing procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member. KRS 161.605 was also amended to remove the requirement that a district submit a request to KDE to exceed its quota for hiring full-time retired members no sooner than two weeks after the start of the school year.

702 KAR 6:075, Reports and funds: Many of the requirements contained in this regulation are already governed by federal regulations or other state law. Therefore, this regulation is not necessary and should be allowed to expire.

704 KAR 7:070, Guidelines for dropout prevention programs: This regulation is authorized by KRS 158.148, which directed the KBE to establish criteria for the development of dropout prevention programs and grant awards based upon available appropriations from the General Assembly. Appropriations for this particular dropout prevention program have been removed from the state budget for multiple budget cycles and the KDE does not believe the funds will be restored. The removal of this regulation does not change how the KDE provides support for dropout prevention programs across the state.

704 KAR 10:022, Elementary, middle, and secondary school accreditation: This regulation governs the accreditation process for public schools and the certification process for nonpublic schools. The KDE no longer accredits public schools and the process for the certification of nonpublic schools is now managed by the Kentucky Nonpublic Schools Commission. As such, this regulation is no longer necessary and should be allowed to expire.

KRS 156.106 still requires the KBE to promulgate regulations to establish procedures to be used to appoint retired teachers and administrators to positions in critical shortage areas under KRS

156.106 and KRS 161.605. However, House Bill 441 amended KRS 156.106 to remove the requirement that a retired teacher or administrator shall not be hired until the district superintendent assures that every reasonable effort has been made to recruit an active teacher or administrator for the position on an annual basis. Therefore, this regulation should be permitted to expire because it is no longer necessary in its current form due to the statutory amendments in House Bill 441.

Budget Impact:

KDE does not anticipate any budget impact as a result of the above-listed regulations expiring.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

Local Superintendents Advisory Council (LSAC) reviewed this recommended action at its September 2025 meeting.

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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
