

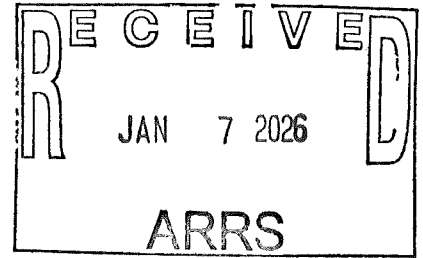
Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Dr. Robbie Fletcher
Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
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January 6, 2026

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort, KY 40601

Re: 701 KAR 5:150. Nontraditional instruction program.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 701 KAR 5:150, the Kentucky Board of Education proposes the attached amendment to 701 KAR 5:150.

Sincerely,

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

Subcommittee Substitute
EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education
(Amendment)

701 KAR 5:150. Nontraditional instruction program.

RELATES TO: KRS 158.070

STATUTORY AUTHORITY: KRS 156.029, 156.070, 156.160, 158.070

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.029 (9)(7) requires the Kentucky Board of Education (KBE) to adopt policies and administrative regulations by which the Kentucky Department of Education (department) shall be governed in planning and operating programs within its jurisdiction. KRS 156.070(5) requires the KBE, upon the recommendation of the Commissioner of Education (Commissioner), to establish policy or act on all programs, services, and other matters which are within the administrative responsibility of the department. KRS 158.070 requires the KBE to promulgate an administrative regulation to prescribe the conditions and procedures for local education agencies (districts) to be approved for the nontraditional instruction program. This administrative regulation establishes the requirements and approval process for districts to be approved for the nontraditional instruction program.

Section 1. Definitions.

(1) "Comprehensive District Improvement Plan" shall have the same meaning as defined in 703 KAR 5:225, Section 1(3).

(2) "Continuation of learning" means the provision of rigorous educational activities that extend or maintain progress within the established curriculum and instructional sequence.

(3) **"District Nontraditional Instruction Contact" means the designated individual responsible for overseeing the implementation, coordination, and compliance of nontraditional instruction activities within a school district [(2)] ["Instructional delivery method" means the delivery system and instructional techniques used in meeting the learning needs of students regardless of their physical location].**

(4) **"Instructional delivery method" means the delivery system and instructional techniques used in meeting the learning needs of students regardless of their physical location ["District Nontraditional Instruction Contact" means the designated individual responsible for overseeing the implementation, coordination, and compliance of nontraditional instruction activities within a school district].**

(5) "Learning loss" means a measurable decline or stagnation in student academic performance resulting from short-term interruptions to traditional, in-person instruction.

(6)(3) "Minimum school term" or "school term" is defined in KRS 158.070(1)(b).

(7)(4) "Nontraditional instruction day" means a day during the school term that a local school district is closed for health or safety reasons that is approved by the commissioner, pursuant to KRS 158.070(9), to be the equivalent to a student attendance day.

~~(8)~~~~(5)~~ "Nontraditional instruction plan" means the strategy approved by the commissioner and implemented by a local school district to ensure instruction on nontraditional instruction days is a continuation of learning that is occurring on regular student attendance days as required by KRS 158.070(9).

~~(9)~~~~(6)~~ "Professional learning plan" means the strategy implemented to ensure staff in a local school district acquire, enhance, and refine the knowledge, skills, practices, and dispositions necessary to create and support high levels of learning for all students.

~~(10)~~~~(7)~~ "Student attendance day" is defined in KRS 158.070(1)(e).

Section 2. Nontraditional Instruction Plan.

(1) A district seeking commissioner approval, pursuant to KRS 158.070, of a nontraditional instruction plan shall annually incorporate it within the Comprehensive District Improvement Plan.

(2) A nontraditional instruction plan incorporated within the Comprehensive District Improvement Plan shall:

(a) Provide an overview of the district's vision for ensuring a continuation of learning when implementing nontraditional instruction;

(b) Describe in detail:

1. How instruction shall be delivered for students in nontraditional settings;
2. The steps the district shall take to ensure a continuation of learning occurs for students in nontraditional settings;
3. How, if at all and to the extent permitted by applicable statutes and administrative regulations, the district shall ensure a continuation of learning occurs for those students utilizing, for any reason, nontraditional instruction during time periods when the district may be offering and providing in-person instruction to other students;
4. How the district shall ensure a continuation of learning for students with Individual Education Plans in nontraditional settings;
5. Additional efforts that may be necessary to ensure a continuation of learning for other special populations of students in nontraditional settings;
6. How the district has coordinated or will coordinate with other educational entities to ensure a continuation of learning for students in nontraditional settings;
7. How teachers shall instruct, support, and communicate with students ~~[in order]~~ to ensure academic progress as well as promote social and emotional well-being for students in nontraditional settings;
8. The professional learning activities the district shall provide certified staff to ensure they have the skills necessary to provide a continuation of learning for students in nontraditional settings;
9. How the district shall deploy all staff when school is closed to in-person instruction;
10. The partnerships the district has established with other community agencies to increase opportunities for a continuation of learning for students in nontraditional settings; ~~and~~
11. The district's communication plan for parents, students, and community members for students in nontraditional settings;
12. The district's plan for collecting and archiving the evidence of student learning samples required by Section 3(3) of this **administrative** regulation; and

13. The name and contact information for the districts nontraditional instruction contact.
- (c) Explain how the nontraditional instruction plan relates to district goals; and
- (d) [(d)] Provide other evidence deemed necessary by the department to effectively review and approve or deny a district's nontraditional instruction plan.
- (3) The department shall provide technical assistance, upon request, to districts prior to the incorporation of a nontraditional instruction plan within the Comprehensive District Improvement Plan.
- (4) A district shall submit the nontraditional instruction plan to the department by May 1 for implementation at the beginning of the upcoming school term.
- (5) The commissioner or his designee shall review and approve or deny a completed nontraditional instruction plan within forty-five (45) days from receipt.
- (6) An approved nontraditional instruction plan shall be effective only for one **(1)** school year.
- (7) [(6)]
- (a) A district approved to participate in the nontraditional instruction program may amend its nontraditional instruction plan as needed at any time by submitting a written amendment request to the department.
- (b) The amendment request shall contain a description of the amendment, proposed timeline for implementation, and justification for the request.
- (c) The Commissioner or his designee shall review the amended nontraditional instruction plan and approve or deny it within forty-five (45) days of the amendment submission.
- (d) Amendments made to a district approved plan shall not be implemented until after the amendment is approved by the department.

Section 3. Documentation~~[Use-]~~ of Nontraditional Instruction Days.

- (1) Upon approval of a district's nontraditional instruction plan,~~[If a district is approved by the commissioner or his designee to participate in the nontraditional instruction program, the district may apply for and]~~ the commissioner may approve the use of nontraditional instruction days on days when the district is closed for health or safety reasons pursuant to KRS 158.070.
- ~~[(2)] [The district shall seek approval from the commissioner to use one (1) or more nontraditional instruction days by submitting a request and appropriate supplemental documentation, as required by the department, to the department within thirty (30) days following the day the district was closed for health or safety reasons.]~~
- (2) An approved nontraditional instruction plan grants the district the ability to use one (1) or more nontraditional instruction days. Each day **shall [must]** be properly recorded in the statewide student information system prior to the last day of the school year.
- ~~[(3)] [The commissioner shall approve or deny a district's use of one (1) or more nontraditional instruction days within thirty (30) days from receipt of the district's request and appropriate supplemental documentation, as required by the department. A request to use one (1) or more nontraditional instruction days shall be denied by the commissioner if the district fails to supply clear]~~
- (3) Districts shall maintain an archive of clear evidence demonstrating that a continuation of learning from regular student attendance days occurs on nontraditional instruction days. Clear evidence may include:
- (a) Examples of student work;

- (b) Lesson plans;~~[-or]~~
 - ~~[(c)] [Curriculum maps.]~~
 - (c) Reports from online learning management systems;
 - (d) Examples of teacher-student communication; or
 - (e) Other documentation determined appropriate by the district nontraditional instruction contact in consultation with the Department.
- (4) The district archive described in subsection 3 of this section shall include the following:
- (a) For students in Kindergarten through Fifth Grade, one **(1)** piece of clear evidence of student learning for each grade level for reading, math, and one **(1)** other content area for each nontraditional instruction day; and
 - (b) For students in sixth through twelfth grade, one **(1)** piece of clear evidence of student learning for each grade level in each content area for each nontraditional instructional day.

Section 4. Monitoring ~~[and Revocation]~~ of Nontraditional Instruction Programs.

(1) At the conclusion of each school term, a district~~[approved by the commissioner or his designee to participate in the nontraditional instruction program]~~ may be required to participate in monitoring conducted by~~[receive an annual site visit from]~~ a review team selected and trained by the department. The purpose of the monitoring~~[site visit]~~ is to monitor the district's progress in implementing the approved nontraditional instruction plan. Monitoring may be performed on or off site as determined by the Commissioner or his designee.

(2) If monitoring~~[a site visit]~~ is conducted by the department, it~~[the site visit]~~ shall:

- (a) Be made following adequate advanced notice to the district; and
- (b) Include the gathering of information through the examination of records related to the district's implementation of the approved nontraditional instruction plan, including amendments if applicable, and through interviews with district leadership, staff, and students as well as other stakeholders.

(3) In addition to any monitoring~~[site visit]~~ that may be conducted pursuant to subsections (1) and (2) of this section, a district~~[approved by the commissioner or his designee to participate in the nontraditional instruction program]~~ shall, upon request, make the following available for inspection by the department:

- (a) Documentation of the instructional delivery methods used on nontraditional instruction days;
- (b) Evidence demonstrating the district provides access on nontraditional instruction days to online resources, if used, and equitable instructional materials for students who do not have access to the internet and for students needing to access information differently;
- (c) Clear evidence demonstrating a continuation of learning from regular student attendance days occurs on nontraditional instruction days;~~[- Clear evidence may include:]~~

~~[1.] [Examples of student work;]~~

~~[2.] [Lesson plans; or]~~

~~[3.] [Curriculum maps.]~~

(d) Evidence demonstrating the district ensures implementation of Individual Education Programs for students with disabilities, including the involvement of the Admissions and Release Committee in planning for and making decisions related to the participation and needs of students with disabilities, on nontraditional instruction days;

- (e) Evidence demonstrating the district ensures implementation of other student-specific educational plans, including Program Service Plans for English Learners and Gifted Student Service Plans for students identified as gifted and talented, on nontraditional instruction days;
- (f) Data demonstrating student participation and student learning on nontraditional instruction days;
- (g) Evidence demonstrating how each job category within the district fulfills contractual obligations on nontraditional instruction days and data, including teacher work logs, demonstrating employee participation on nontraditional instruction days;
- (h) The professional learning plan implemented by the district to ensure certified staff have the knowledge and capacity to provide instruction on nontraditional instruction days and evidence demonstrating implementation;
- (i) Where appropriate, agreements about nontraditional instruction days between the district and educational agencies that are external to the district but have students of the district in attendance on a part-time or full-time basis;
- (j) Evidence demonstrating stakeholder involvement in developing and implementing nontraditional instruction days;
- (k) Methods used by the district to relay information about nontraditional instruction days to students and families; and
- (l) Other evidence deemed necessary by the department to effectively monitor the implementation of the approved nontraditional instruction plan, including amendments if applicable.

Section 5. Corrective Action.

(1)[(4)] The commissioner or his designee may require a period of corrective action and enhanced monitoring[revoke approval] of a district's nontraditional instruction program as a result of evidence collected pursuant to [this section]monitoring conducted under Section 4 of this **administrative** regulation.

(2)[(5)] If the determination to require corrective action was made as the result of off-site monitoring, the district [Prior to having approval of its nontraditional instruction program revoked, a district]shall receive a site visit from a review team selected and trained by the department. The site visit shall include the same requirements as the on-site monitoring visit **established** in Section 4 of this **administrative regulation**. [The purpose of the visit shall be to monitor the district's progress in implementing the nontraditional instruction program, collect qualitative data on the effectiveness of the nontraditional instruction program, and verify the district's compliance with all applicable laws. A site visit shall be made following adequate advance notice to the district and may include the gathering of information through:]

[(a)] [Direct observation;]

[(b)] [Interviews with staff and students; or]

[(c)] [Examination of records.]

(3) Following the on-site monitoring, the Department **shall [will]** develop a corrective action plan in collaboration with the district. The corrective action plan shall include:

(a) A description of each area of noncompliance identified by the monitoring team and the supporting evidence used to identify the area of noncompliance;

(b) Specific actions to be taken by the district to remedy issues of noncompliance; and

- (c) A timeline for the completion of the specific actions required in paragraph (b) above.
- (4) A district shall be released from corrective action following the successful completion of the corrective action plan.
- (5) A district that has exited corrective action shall undergo an on-site monitoring visit in the school year following the completion of the corrective action plan to ensure that compliance has been sustained.

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).

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email: regcomments@education.ky.gov.

Andy Beshear
Governor

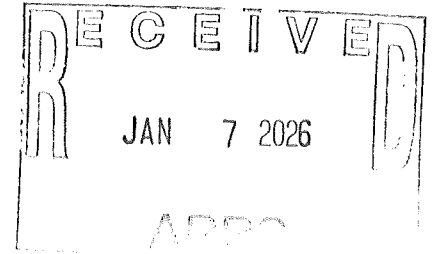


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January 6, 2026

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort, KY 40601

Re: 701 KAR 5:170. Waiver requests.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 701 KAR 5:170, the Kentucky Board of Education proposes the attached amendment to 701 KAR 5:170.

Sincerely,

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

Subcommittee Substitute

EDUCATION AND LABOR CABINET

Board of Education

Department of Education

(Amended After Comments)

701 KAR 5:170. Waiver requests.

RELATES TO: KRS 156.070, 156.160, 156.161, 157.360, 158.854

STATUTORY AUTHORITY: KRS 156.070, 156.161

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 authorizes the Kentucky Board of Education to manage and control the common schools, including prescribing administrative regulations the Kentucky Board of Education deems necessary for the efficient management, control and operation of public schools. KRS 156.161 authorizes the Kentucky Board of Education to promulgate administrative regulations to establish procedures for processing requests to waive statutes or administrative regulations pursuant to KRS 156.161. This administrative regulation sets forth the procedures for processing requests to waive statutes or administrative regulations pursuant to KRS 156.161.

Section 1. Definitions.

- (1) "Amendment application" means a waiver request wherein a school district board of education seeks to amend the waiver of a statute or administrative regulation previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.
- (2) "Commissioner" means the commissioner of the department.
- (3) "Department" means the Kentucky Department of Education.
- (4) "New application" means a waiver request wherein a school district board of education seeks a waiver of a statute or administrative regulation not previously granted to the requestor by the Kentucky Board of Education, or previously granted to the requestor by the Kentucky Board of Education but expired or terminated as of the date of the waiver request.
- (5) "Renewal application" means a waiver request wherein a school district board of education seeks renewal of a waiver of a statute or administrative regulation previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.
- (6) "Special education maximum class size application" means a waiver request wherein a superintendent or school-based decision making council seeks a waiver of the special education class sizes prescribed in 707 KAR 1:350, or to renew a waiver of the special education class sizes prescribed in 707 KAR 1:350 previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.
- (7) "Waiver request" means a request to waive statutes or administrative regulations made pursuant to KRS 156.161 and this administrative regulation.

Section 2. Waiver Request Application.

- (1) A waiver request shall be in the form of a new application, a renewal application, an amendment application, or a special education maximum class size application, and shall comply with the requirements of this section.
- (2) A waiver request shall be submitted by U.S. mail to the department with the phrase "Attn: Waiver Request" in the address. The Commissioner may allow email submission of waiver requests at his or her discretion to an email address selected by the Commissioner.
- (3) A new application shall include an Application Cover Sheet, and attached thereto a Specific Waiver Request Form for each statute or administrative regulation from which the requestor seeks a waiver.
- (4) A renewal application shall include an Application Cover Sheet, and attached thereto a Renewal Application Form.
- (5) An amendment application shall include an Application Cover Sheet, and attached thereto an Amendment Request Form.
- (6) A special education maximum class size application shall include a Special Education Maximum Class Size Request Form.
- (7) A waiver request shall be deemed incomplete if:
 - (a) The request fails to include all forms required for the waiver request as provided in subsections (3) – (6) of this section;
 - (b) The forms required for the waiver request as provided in subsections (3) – (6) of this section contain missing or incomplete responses; or
 - (c) Attachments prescribed within the forms required for the waiver request as provided in subsections (3) – (6) of this section are missing or incomplete.

Section 3. Receipt and Technical Review.

- (1) Upon receipt of a waiver request, the department shall:
 - (a) Notate the date the department received the request;
 - (b) Assign a number to identify the request;
 - (c) Notify the Kentucky Board of Education that the waiver request will ~~[should]~~ appear on its next regular meeting for review and decision; and
 - (d) Perform a technical review of the waiver request as set forth in subsection (2) of this section.
- (2) The department shall perform the following technical review for each waiver request received:
 - (a) Calculate the number of calendar days from the date noted on the waiver request pursuant to subsection (1)(a) of this section and the next regular meeting of the Kentucky Board of Education following that date;
 - (b) Determine whether the waiver request seeks waiver of any statute or administrative regulation set forth in KRS 156.161(1)(a)-(j); and
 - (c) Determine whether the waiver request meets the requirements of KRS 156.161(2) and Section 2 of this administrative regulation.
- (3) Following the technical review performed pursuant to subsection (2) of this section, the department shall notify the party submitting the waiver request of the following:
 - (a) The date the department received the waiver request;
 - (b) The number assigned by the department to identify the waiver request;
 - (c) The Kentucky Board of Education meeting date when the waiver request will be acted upon;

- (d) If the number of calendar days calculated pursuant to subsection (2)(a) of this section is less than forty-five (45), that denial of the waiver request shall be recommended to the Kentucky Board of Education due to insufficient time to conduct a meaningful review of the request, unless the Commissioner determines the waiver request is narrowly tailored to address an emergency situation requiring timely action by the Kentucky Board of Education;
 - (e) If the waiver request seeks waiver of any statute or administrative regulation set forth in KRS 156.161(1)(a)-(j), that denial of those portions of the request shall be recommended to the Kentucky Board of Education;
 - (f) If the waiver request does not meet the requirements of KRS 156.161(2) or Section 2 of this administrative regulation, that denial of the request shall be recommended to the Kentucky Board of Education, along with a description of how the request does not meet the requirements of KRS 156.161(2) or Section 2 of this administrative regulation;
 - (g) Instructions on how the party submitting the waiver request may voluntarily withdraw its request from Kentucky Board of Education review prior to the date set forth in paragraph (c) of this subsection; and
 - (h) Instructions on how the party submitting the waiver request may request that the Kentucky Board of Education act upon the request on a date different from that set forth in paragraph (c) of this subsection.
- (4) Following the notice provided in subsection (3) of this section, the department shall take the following steps in processing the waiver request:
- (a) If the waiver request is recommended to the Kentucky Board of Education for denial as set forth in paragraph (d) or (f) of subsection (3) of this section, **the [then-such]** recommendation shall be forwarded to the Kentucky Board of Education and the department shall terminate further review of the waiver request pursuant to this administrative regulation;
 - (b) If portions of the waiver request are recommended to the Kentucky Board of Education for denial as set forth in paragraph (e) of subsection (3) of this section, **the [then-such]** recommendation shall be forwarded to the Kentucky Board of Education and the department shall terminate further review of those portions of the waiver request pursuant to this administrative regulation; and
 - (c) Any waiver request, or portion thereof, not recommended for denial to the Kentucky Board of Education as set forth in paragraphs (d) – (f) of subsection (3) of this section shall proceed to substantive review pursuant to Section 4 of this administrative regulation.

Section 4. Substantive Review.

- (1) A waiver request, or portion thereof, that proceeds to substantive review pursuant to subsection (4)(c) of Section 3 of this administrative regulation shall be reviewed and recommended by the Commissioner to the Kentucky Board of Education for approval or denial following **the [such]** review.
- (2) In reviewing and evaluating the waiver request for a recommendation pursuant to subsection (1) of this section, the Commissioner shall consider the following factors:
 - (a) The entirety of the waiver request as set forth in subsections (3) – (6) of Section 2 of this administrative regulation;
 - (b) Student academic achievement for the past three **(3)** full school years for which data is available in the schools and programs identified in the waiver request;

- (c) Whether and to what extent the waiver request describes processes the requesting party will utilize to measure success as a result of the waiver, if granted, using data and accountability;
 - (d) The likelihood of the schools and programs identified in the waiver request realizing meaningful operational efficiency improvements if the waiver is granted;
 - (e) The likelihood of the students enrolled in the schools and programs identified in the waiver request realizing improved academic achievement if the waiver is granted;
 - (f) Whether and to what extent the waiver request reasonably anticipates potential adverse impacts on student academic achievement and addresses **those [such]** potential adverse impacts;
 - (g) Whether and to what extent the waiver request demonstrates the establishment of high expectations for student learning and evidence based best practices for learning in the schools and programs identified in the request; and
 - (h) For special education maximum class size applications, any additional factors to be considered pursuant to 707 KAR 1:350 for waiver or exemption of special education maximum class sizes.
- (3) Following review and evaluation as provided in subsection (2) of this section, the Commissioner shall recommend approval of a waiver request, or portion thereof, only if he or she finds the requested waiver is more likely than not:
- (a) To improve school or program operations without hindering student academic achievement; or
 - (b) To improve student academic achievement at the school or program.

Section 5. Notification of Kentucky Board of Education Action.

- (1) Within ten (10) business days following action by the Kentucky Board of Education on any waiver request, the department shall notify the requesting party of:
- (a) The action taken by the Kentucky Board of Education on the waiver request; and
 - (b) If any portion of the waiver request was granted:
 - 1. The specific statutes or administrative regulations waived;
 - 2. The schools or programs to which the waiver applies;
 - 3. The expiration date of the waiver granted;
 - 4. The process to file a renewal application to avoid expiration of the waiver granted; and
 - 5. The process to file an amendment application to seek future amendments to the waiver granted.
- (2) The department shall maintain a list of waiver requests granted by the Kentucky Board of Education. The department shall remove from the list any waivers that are no longer effective due to expiration or termination.

Section 6. Termination of Waiver.

- (1) A party to whom a waiver request is granted may request voluntary termination of the waiver by submitting an amendment application using the procedures set forth in Section 2 of this administrative regulation.
- (2) The Kentucky Board of Education may terminate a waiver it previously granted as provided in KRS 156.161(9). No less than twenty (20) calendar days prior to a meeting of the Kentucky Board of Education to consider termination of a waiver pursuant to this subsection, the

department shall provide written notice to the party to whom the waiver was granted of the following:

- (a) That the Kentucky Board of Education will consider termination of a previously granted waiver as provided in KRS 156.161(9);
 - (b) The Kentucky Board of Education meeting date when **[such]** consideration and action shall occur;
 - (c) The reasons for potential termination of the previously granted waiver along with copies of any documents that will be considered by the Kentucky Board of Education as evidence in support of the reasons for potential termination; and
 - (d) That any written response of the party to whom the waiver was granted, received by the department within fifteen (15) calendar days following the date of the notice, shall be provided to the Kentucky Board of Education for its consideration prior to any action to terminate a previously granted waiver as provided in KRS 156.161(9).
- (3) Within five (5) business days following any action by the Kentucky Board of Education pursuant to subsection (2) of this section, the department shall provide written notice to the party granted a waiver subject to termination action of the outcome of the Kentucky Board of Education's action pursuant to KRS 156.161(9).

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Application Cover Sheet", **October 2025[June 2025]**;
- (b) "Specific Waiver Request Form", June 2025;
- (c) "Renewal Application Form", June 2025;
- (d) "Amendment Request Form", June 2025; and
- (e) "Special Education Maximum Class Size Request Form", **October 2025[June 2025]**.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Department of Education, 300 Sower Blvd. 5th Floor, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m. eastern time. This material may also be accessed on the Kentucky Department of Education website at: <https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>.

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).

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

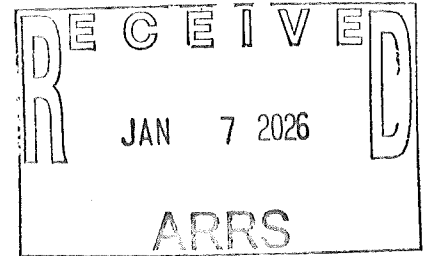
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January 6, 2026

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort, KY 40601

Re: 704 KAR 3:406. Superintendent training program and assessment process.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 3:406, the Kentucky Board of Education proposes the attached amendment to 704 KAR 3:406.

Sincerely,

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

Subcommittee Substitute

**EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education
(Amendment)**

704 KAR 3:406. Superintendent training program and assessment process.

RELATES TO: KRS 156.111, 160.350

STATUTORY AUTHORITY: KRS 156.111

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.111 requires ~~[mandates that]~~ the Kentucky Department of Education to establish a superintendent training program and assessment center and that the Kentucky Board of Education ~~[State Board for Elementary and Secondary Education]~~ adopt administrative regulations to govern the training content, number of hours, assessments, and work products ~~[written examination, and criteria]~~ for successful completion of the training and assessment center process. This administrative regulation establishes the requirements of ~~[implements]~~ the superintendent training program and assessment center process.

Section 1. Definitions.

- (1) "Candidate" means an individual enrolled in the superintendent training and assessment program.
- (2) "Comprehensive superintendent assessment" means assessment of a candidate's performance through performance-based projects, portfolios, or capstones which includes a collection of work products demonstrating a candidate's knowledge of each of the topics required in superintendent training modules, and ability to apply that knowledge to efficiently and effectively solve problems as a superintendent.
- (3) "Executive coaching and mentoring" means a program whereby:
 - (a) An individual with experience as a Kentucky public school superintendent is assigned to **each candidate** ~~[all candidates]~~ for the purpose of coaching candidates throughout the superintendent training and assessment program on the knowledge and skills necessary to be a successful superintendent; and
 - (b) A candidate is assigned an individual with experience as a Kentucky public school superintendent for the purpose of mentorship throughout the superintendent training and assessment program.
- (4) "Facilitator" means a trained instructor and observer who leads superintendent training modules and specialized professional learning, and records and analyzes candidate performance throughout the comprehensive superintendent assessment.
- (5) "Performance-based projects, portfolios, or capstones" means a multifaceted and intellectual experience culminating in a candidate-led demonstration of critical knowledge, skills, and capacities required for success as a superintendent.

(6) "Proficiency on the comprehensive superintendent assessment" means a level of performance on each of the topics required in superintendent training modules that demonstrates a high degree of skill in that particular topic, as determined by an advisory committee.

(7) "Superintendent training and assessment program" means a professional growth and development program which includes:

- (a) Superintendent training modules;
- (b) Executive coaching and mentoring; and
- (c) Comprehensive superintendent assessment.

(8) "Superintendent training modules" means a training program that is no less than forty-two (42) and no more than seventy-two (72) hours in length, providing high-quality instruction delivered by a facilitator and approved by the Kentucky Department of Education on each of the following topics:

- (a) The topics set forth in KRS 156.111(1)(a)-(i); and
- (b) Educator ethics.

~~[(1)] ["Assessee" means an individual who undergoes the assessment process.]~~

~~[(2)] ["Assessment center candidate" means a superintendent or applicant for a superintendent position who has been recommended by a local board of education or the Kentucky Department of Education to undergo assessment.]~~

~~[(3)] ["Assessor" means a trained observer who records and analyzes assessee performance during an assessment.]~~

~~[(4)] ["Assessor training" means training in which participants are taught how to observe and record behaviors displayed by assessment center candidates and are taught to write objective and comprehensive reports.]~~

~~[(5)] ["Comprehensive superintendent examination" means a written comprehensive examination over the following subjects:]~~

- ~~[(a)] [Core concepts of management;]~~
- ~~[(b)] [School-based decision making;]~~
- ~~[(c)] [Kentucky school law;]~~
- ~~[(d)] [Kentucky school finance;]~~
- ~~[(e)] [School curriculum and assessment.]~~

~~[(6)] ["Final assessment report" means a written report providing the overall performance ratings as well as the performance rating for each skill, and shall include suggestions for improvement and growth, and signatures of all persons involved in the assessment process.]~~

~~[(7)] ["Mastery level on the Kentucky Superintendent Comprehensive Examination" means a required level of performance on each of the five (5) components of the Kentucky Superintendent Comprehensive Examination to be determined by an advisory committee to the Kentucky Department of Education based on technical reports secured from field test data obtained during the 1992-93 school year.]~~

~~[(8)] ["Screening committee" means the local superintendent search screening committee required by KRS 160.352.]~~

~~[(9)] ["Superintendent assessment and training and testing process" means a comprehensive assessment process and training program including assessment of personal administrative skills, training modules in identified skill dimensions and selected concepts related to the position of~~

school superintendent, and a comprehensive examination. Assessment and training are more specifically defined as follows:]

[(a)] ["Assessment process" means a Kentucky Department of Education psychometric procedure emphasizing multiple individual and group simulations representative of the superintendent position which will yield extensive feedback of each assessee's strengths and behaviors in skill dimensions validated as essential for effective performance. The assessment process is used to develop a personal skills profile on candidates seeking employment or employed in superintendent positions.]

[(b)] ["Training program" means a series of training modules designed for the purpose of improving individual skills of superintendent candidates or providing knowledge in the following subjects:]

[1.] [Core concepts of management, up to eighteen (18) hours;]

[2.] [School-based decision making, up to nine (9) hours;]

[3.] [Kentucky school law, up to nine (9) hours;]

[4.] [Kentucky school finance, up to twelve (12) hours;]

[5.] [School curriculum and assessment, up to twenty-four (24) hours;]

[(10)] ["Written assessment report" means a report which provides each assessee with a profile of strengths and behaviors and suggestions to help improve the assessee's skills.]

[(11)] ["Written testing report" means a report which provides each assessee with certification of successful completion of each component of the comprehensive superintendent examination.]

Section 2. Required Completion of Superintendent Training and Assessment Program.

(1) Each person hired for the first time to serve as a superintendent in a Kentucky public school district shall successfully complete the superintendent training and assessment program within two (2) years from the date the person began his or her role as superintendent.

(2) To successfully complete the superintendent training and assessment program, the candidate shall:

(a) Complete all required superintendent training modules unless an exception is granted pursuant to subsection (3) of this section; and

(b) For each of the topics required in the superintendent training modules, demonstrate proficiency on the comprehensive superintendent assessment.

(3) If a candidate possesses past experience that situates the candidate to likely demonstrate proficiency on the comprehensive superintendent assessment for a particular topic prior to completing training on that topic in the superintendent training modules, the candidate may request an exception from participating in that particular training topic within the superintendent training modules. If **[such]**an exception is granted, the total superintendent training modules hours required for the candidate shall not be reduced. The candidate shall obtain additional training in alternative topics within the superintendent training modules equal to the hours of the training topic for which an exception is granted, which may include specialized additional training provided by a facilitator.

(4) If the candidate fails to demonstrate proficiency on the comprehensive superintendent assessment, the candidate may request to repeat the superintendent training modules and comprehensive superintendent assessment for **the [those]** topics in which he or she failed to demonstrate proficiency. A candidate who repeats the superintendent training modules and

comprehensive superintendent assessment for **the [those]** topics in which he or she failed to demonstrate proficiency shall do so within two (2) years from the date the candidate began his or her role as superintendent.

~~[(1)] [The Superintendent Training and Assessment Center shall be responsible for the assessment of superintendents and superintendent applicants, provide assessor training, provide training using Kentucky Department of Education approved modules, and serve as the site for the administration of the comprehensive superintendent examination.]~~

~~[(2)]~~

~~[(a)] [The center staff shall coordinate assessments and trainings, maintain all records, make provisions for the necessary reporting of training and assessment status as to all superintendents, and report the status of all superintendent candidates to the chairperson of the local board of education.]~~

~~[(b)] [The report shall:]~~

~~[1.] [Be sent at the conclusion of participation in the training, testing, and assessment process;]~~

~~[2.] [Include a copy to the participating superintendent;]~~

~~[3.] [Specify whether the participating superintendent successfully completed the training, testing, and assessment process.]~~

~~[(c)] [A report shall be made to the assessee, the Office of Teacher Education and Certification, and the local board of education chairperson on any person serving in the position of superintendent, who does not complete the assessment and successfully complete the comprehensive superintendent examination within the applicable deadlines set forth in KRS 156.111 and 160.350.]~~

Section 3. Enrollment and Recordkeeping.

(1) Candidates shall be enrolled in the superintendent training and assessment program with the following enrollment preference:

(a) **[Those]** Individuals hired for the first time to serve as a superintendent in a Kentucky public school district shall be guaranteed enrollment;

(b) If enrollment capacity remains after enrolling **the [those]** candidates described in paragraph (a) **of this subsection**, then those individuals who are a candidate for superintendency, but not yet employed as a superintendent may be enrolled on a first come, first served basis; and

(c) If enrollment capacity remains after enrolling **the [those]** candidates described in paragraph (b), then those individuals who are neither employed as a superintendent, nor a candidate for superintendency, may request enrollment at the candidate's expense.

(2) Upon enrollment, a candidate shall be required to sign an oath which pledges nondisclosure of the comprehensive superintendent assessment.

(3) A roster of enrolled candidates shall be maintained by the program administrator. The roster shall include:

(a) Each candidate's name;

(b) The school district where the candidate is employed as superintendent, if applicable;

(c) The date the candidate was first employed as a superintendent in a Kentucky public school district;

(d) The date by which the candidate **shall [must]** complete the superintendent training and assessment program pursuant to subsection (1) of Section 2 of this administrative regulation;

- (e) The candidate's assigned mentor; and
 - (f) The candidate's progress in completing the superintendent training modules.
- (4) Upon enrollment of a candidate, the program administrator shall:
 - (a) Send written notification of the candidate's enrollment in the program to the candidate, the Kentucky Department of Education, and the board chair for the public school district where the candidate is employed as superintendent, if applicable;
 - (b) Assign the candidate a mentor for executive coaching and mentoring, and provide written notification of this assignment to the candidate and the mentor; and
 - (c) Send written notification to the candidate that includes:
 - 1. Program requirements and expectations;
 - 2. The schedule of superintendent training modules the candidate **shall [must]** complete;
 - and
 - 3. A general description of the required comprehensive superintendent assessment, including how the candidate's proficiency on the comprehensive superintendent assessment will be judged.
- (5) A candidate enrolled pursuant to paragraphs (b) or (c) of subsection (1) of this section shall provide immediate notice to the program administrator if the candidate is hired as a superintendent in a Kentucky public school district while enrolled in the superintendent training and assessment program. Upon receipt of **[such]** notice, the program administrator shall update the roster set forth in subsection (3) of this section accordingly, and provide written notice to the board chair consistent with paragraph (a) of subsection (4) of this section.
- (6) Upon completion of the superintendent training and assessment program, the program administrator shall send a final written report for each candidate to the candidate, the Kentucky Department of Education, and the board chair for the public school district where the candidate is employed as superintendent, if applicable, containing the following information:
 - (a) Each topic completed within the superintendent training modules, including the hours completed for each topic and total hours completed within the superintendent training modules;
 - (b) Any topics not completed by the candidate within the superintendent training modules;
 - (c) For each of the topics required in the superintendent training modules, whether or not the candidate demonstrated proficiency on the comprehensive superintendent assessment; and
 - (d) A statement as to whether or not the candidate successfully completed the superintendent training and assessment program as set forth in subsection (2) of Section 2 of this administrative regulation.
- (7) Upon completion of the superintendent training and assessment program, the program administrator shall:
 - (a) Administer a comprehensive survey to candidates who completed the program which gathers feedback from candidates on:
 - 1. The quality, rigor, and value of the superintendent training and assessment program;
 - 2. The time commitments of the superintendent training and assessment program;
 - 3. The knowledge, skills, and expertise of facilitators;
 - 4. The helpfulness of the candidate's assigned mentor throughout the superintendent training and assessment program; and

5. Candidate recommendations for topics that should be covered in greater detail throughout the superintendent training and assessment program; and

(b) Provide the aggregate results of each survey question to the Kentucky Department of Education.

~~[(1)] [The following requirements shall apply to a person hired for the first time as a superintendent in Kentucky after July 1, 1992 and before July 1, 1994:]~~

~~[(a)] [Superintendents who complete the assessment phase and demonstrate mastery on the Kentucky Superintendent Comprehensive Exam shall be certified as having met the requirements of KRS 156.111.]~~

~~[(b)] [A superintendent who does not demonstrate mastery on any one (1) of the components of the Kentucky Superintendent Comprehensive Exam shall be eligible to participate in a second training of the appropriate module(s) of the training program prior to retaking the comprehensive examination or shall retake the comprehensive examination on the next scheduled date of the examination.]~~

~~[(2)] [Persons employed as superintendent in Kentucky prior to July 1, 1992, may elect to not participate in any, or all, of the modules of the training phase and take the appropriate components of the comprehensive examination:]~~

~~[(a)] [Superintendents who complete the assessment phase and demonstrate mastery on the Kentucky Superintendent Comprehensive Exam shall be certified as having met the requirements of KRS 156.111.]~~

~~[(b)] [Superintendents who do not demonstrate mastery on the Kentucky Superintendent Comprehensive Exam shall be eligible to participate in further training in corresponding module(s) as a requirement for eligibility to repeating the comprehensive examination:]~~

~~[(3)] [A person hired for the first time as a superintendent in Kentucky after June 30, 1994, shall have one (1) year from the time of employment to successfully complete the assessment and training and testing program described in subsection (1)(a) and (b) of this section:]~~

Section 4. Facilitator Selection and Training.

(1) A facilitator shall possess at least five (5) years of practice experience in the topic the facilitator is assigned to lead or provide specialized professional learning within the superintendent training modules.

(2) Prior to evaluating whether or not a candidate demonstrates proficiency on the comprehensive superintendent assessment, a facilitator shall undergo training on:

(a) The requirements of this administrative regulation;

(b) Proficiency, as determined by an advisory committee, on each of the topics required in superintendent training modules;

(c) How to observe and record behaviors and performance of candidates; and

(d) How to write objective and comprehensive reports regarding candidate performance on the comprehensive superintendent assessment.

~~[(1)] [The Superintendent Training and Assessment Center director shall allocate training and assessment center slots, considering factors to assure diversity and equal access. Local school districts with actual or imminent superintendent vacancies shall be given priority in the assignment of training and assessment center slots.]~~

~~[(2)] [Each assessee, upon completion of the superintendent assessment center process, shall receive a final assessment report. Superintendents and superintendent candidates shall complete the requirements for training and assessment and achieve the designated mastery level on each of the modules of the Kentucky Superintendent Comprehensive Examination to successfully complete the training and testing and assessment.]~~

~~[(3)] [Upon completion of the assessment and successful completion of testing by superintendent candidates, the Superintendent Training and Assessment Center staff shall provide the Office of Teacher Education and Certification and the chairperson of the appropriate local board of education a written report confirming completion of the assessment and successful completion of testing.]~~

~~[(4)] [Persons desiring to be assessed as superintendent, but who are not employed as a superintendent or are not candidates for superintendency at the time, may have requests granted by the Superintendent Training and Assessment Center director at the candidate's expense.]~~

~~[(5)] [Prior to assessment, an assessment center candidate shall be required to sign an oath which pledges nondisclosure of the assessment center process and materials.]~~

Section 5. Complaints. Complaints regarding failure to comply with statutory and regulatory provisions of the Superintendent Training and Assessment Program shall be directed to and evaluated by the Kentucky Department of Education.

~~[(1)] [The Superintendent Training and Assessment Center staff shall maintain all assessment center reports.]~~

~~[(2)] [The security of training and testing and assessment data shall be maintained by the Superintendent Training and Assessment Center staff. Each written report shall be the property of the Kentucky Department of Education. Individual profile reports shall be disseminated by the Superintendent Training and Assessment Center staff only after written authorization has been given by the assessee.]~~

~~[(3)] [All complete written training and assessment center reports shall be retained in confidential Superintendent Training and Assessment Center files. Working documents used by the assessment or training team to formulate each report shall be discarded after three (3) years.]~~

~~[Section 6.] [The Kentucky Department of Education may pay a stipend for each assessment performed by an assessor and for services necessary to conduct training and testing as needed.]~~

~~[Section 7.] [Complaints regarding failure to comply with statutory and regulatory provisions of the Superintendent Training and Assessment Program shall be directed to and evaluated by the Kentucky Department of Education.]~~

Section 6.~~[Section 8.]~~ Continuing Education for Superintendents.

(1) Following successful completion of the superintendent assessment and training program, annual continuing~~[Continuing]~~ education for superintendents shall include:

~~[(a)] [Participation in forty-two (42) hours of Kentucky Department of Education approved training over twenty-four (24) months; or]~~

~~[(b)] [Completion of an annual individual personal growth training plan of at least twenty-one (21) hours of instruction which shall include:~~

(a) Three (3) hours of annual training in school finance; and

(b) Three (3) hours of annual training in ethics.

(2) Completion of continuing education of the superintendent shall be reported to the Kentucky Department of Education. The Kentucky Department of Education shall annually notify the local board of education chairperson of the status of the school district's superintendent's continuing education.

(3) Failure to comply with the requirements of this administrative regulation shall result in referral of the matter to the Education Professional Standards Board for consideration of revocation of the superintendent certificate.

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).

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