

KENTUCKY BOARD OF EDUCATION
Department of Education
(Amendment)

702 KAR 7:125. Pupil attendance.

RELATES TO: KRS 157.320, 157.350, 157.360, 158.030, 158.070, 158.100, 158.240, 159.010, 159.030, 159.035, 159.140, 159.170, 161.200

STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.320, 158.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulation establishing standards which school districts shall meet in student, program, service, and operational performance. KRS 157.320 defines average daily attendance of pupils for funding purposes under the Support Education Excellence in Kentucky (SEEK) Program. KRS 157.360 bases SEEK funding upon average daily attendance. KRS 158.030, 158.100, and 159.010 establish the age for compulsory school attendance. KRS 158.070 defines the school term. KRS 158.240 and 159.035 define attendance credit for moral instruction and 4-H activities. KRS 161.200 requires attendance records to be kept by teachers. This administrative regulation establishes a uniform method of recording pupil attendance.

Section 1. Daily Attendance.

(1) Daily attendance of pupils in elementary schools shall be determined by taking attendance one (1) time each day prior to the start of instruction and maintaining a pupil entry and exit log at each school.

(2) Daily attendance of pupils in middle and high schools shall be determined by taking attendance by class period and maintaining a pupil entry and exit log at each school.

(3) The pupil entry and exit log shall include the date, pupil name, grade or homeroom, time of late arrival, time of early departure (with the reason for both listed), and other information required by the local board of education. For elementary pupils who are signed out, the pupil entry and exit log shall also include a signature of:

(a) A parent;

(b) A legal guardian; or

(c) An adult with proof of identification and for whom the school has received a written authorization from the parent or legal guardian.

(4) Pupils shall be physically present in the school to be counted in attendance except under the following conditions:

(a) The pupil is a participant in a co-curricular instructional activity that has been authorized by the local board of education and is a definite part of the instructional program of the school;

(b) The pupil is a participant in an activity as provided in either KRS 158.240 or 159.035;

(c) The pupil is participating in an off-site virtual high school class or block. A pupil may be counted in attendance for a virtual high school class or block for the year or semester in which the pupil initially enrolled in the class or block if the pupil demonstrates proficiency in accordance with local policies required by 704 KAR 3:305, Section 7;

(d) The pupil's mental or physical condition prevents or renders inadvisable attendance in a school setting, and the pupil meets the requirements of KRS 159.030(2). A pupil being served in the home/hospital program shall receive, at a minimum, the instruction required pursuant to KRS 157.270;

(e) The pupil has been court ordered to receive educational services in a setting other than the classroom. A pupil being served through a court order shall receive at a

- minimum, the instruction required pursuant to paragraph (d) of this subsection;
- (f) The pupil has an individual education program (IEP) that requires less than full-time instructional services;
 - (g) The pupil is participating in standards-based, performance-based credit that is awarded in accordance with 704 KAR 3:305, Section 7 and that falls within one (1) or more of the categories of standards-based course work outlined in 704 KAR 3:305. A pupil may be counted in attendance for performance-based credit for a class or block for the year or semester in which the pupil initially enrolled in the class or block if the pupil demonstrates proficiency in accordance with local policies required by 704 KAR 3:305, Section 7;
 - (h) The pupil participates in a school that is authorized by the commissioner to design and deliver an educational program so that all graduation requirements are based on pupil proficiency of standards and performance, rather than time and Carnegie units, as authorized in 704 KAR 3:305, Section 7; or
 - (i) For school year 2021-2022, the pupil is in quarantine due to documented possible exposure to COVID-19 or isolation due to COVID-19 infection, in accordance with Centers for Disease Control and Kentucky Department for Public Health guidelines, and is receiving at least the minimum amount of daily instruction required pursuant to KRS 158.060.

(5) Even if a pupil's absence or tardy is due to factors beyond the pupil's control, including inclement weather or failure of the transportation system to operate, the pupil shall be counted absent or tardy.

(6) The local board of education shall determine by local board policy what constitutes an excused and an unexcused absence.

(7) A pupil shall not be allowed to make up absences for the purpose of including make-up activities in the calculation of average daily attendance.

Section 2. Calculation of Attendance. The guidelines in this section shall be used to calculate pupil attendance for state funding purposes.

(1) A full day of attendance shall be recorded for a pupil who is in attendance at least sixty-five (65) percent of the regularly-scheduled school day for the pupil's grade level.

(2) A tardy shall be recorded for a pupil who is absent thirty-five (35) percent or less of the regularly-scheduled school day for the pupil's grade level.

(3) A half day absence shall be recorded for a pupil who is absent thirty-six (36) percent to eighty-four (84) percent of the regularly-scheduled school day for the pupil's grade level.

(4) A full day absence shall be recorded for a pupil who is absent more than eighty-four (84) percent of the regularly-scheduled school day for the pupil's grade level.

Section 3. Shortened School Day. A local board of education may permit an arrangement whereby a pupil has a shortened school day in accordance with KRS 158.060 or local board of education policy. The time a pupil is in attendance shall be included in calculating the district's average daily attendance.

Section 4. Dual Enrollment. A local board of education may permit an arrangement in which a pupil pursues part of the pupil's education under the direction and control of one (1) public school and part of the pupil's education under the direction and control of another public or nonpublic school. The time a pupil is served by each public school shall be included when calculating the district's average daily attendance.

Section 5. Private School Placement. If a local school district, under the provisions of KRS 157.360(7), enrolls a child with a disability in a private school or agency, the private school or agency shall certify the attendance of the child to the local school district at the close of each school month.

Section 6. Age of Pupil.

(1) If a local school district enrolls in the entry level program a pupil who will not be five (5) years of age on or before August 1 of the year of enrollment, the total aggregate days attendance for the pupil shall not be included in calculating the district's average daily attendance except under the conditions established in subsection (3) of this section.

(2) If a local school district enrolls in the second level of the primary program a pupil who will not be six (6) years of age on or before August 1 of the year of enrollment, the total aggregate days attendance for the pupil shall not be included in calculating the district's average daily attendance except under the conditions established in subsection (3) of this section.

(3)

(a) The local board of education shall have determined that the pupil is eligible for enrollment in the appropriate level of the primary program after academic, social, and developmental progress records from multiple data sources are reviewed by a team and determined to support accelerated placement. These sources shall include:

1. Anecdotal records;
2. A variety of pupil work samples, including evidence of pupil self-reflection; and
3. Standardized test results.

(b) The team shall be comprised of three (3) members who have knowledge of the pupil's developmental skills and abilities. Team members shall be chosen from these categories:

1. Teachers;
2. Parents;
3. Psychologists;
4. Principals; or
5. District specialists.

(c) At least one (1) team member shall represent the district office and have an understanding of early childhood development and knowledge of developmentally-appropriate practices.

(d) If a pupil is recommended by the local board of education for accelerated placement into the entry or second level of the primary program, the district shall forward that recommendation to the department for approval with:

1. A list of data sources used in making the decision;
2. A list of all individuals who submitted the data sources;
3. A list of team members; and
4. The data needed to create a pupil attendance record.

(4) A local school district shall enroll any resident pupil, not holding a high school diploma, under the age of twenty-one (21) years who wishes to enroll. The days attended after the pupil's 21st birthday shall not be included in the calculation of the district's average daily attendance.

Section 7. Due Dates for Certain Reports.

(1) The Growth Factor Report for the first two (2) school months of the school year created pursuant to KRS 157.360(9) shall be submitted to the department through the statewide student information system within ten (10) business days following the last day of the second school month or by November 1 of each year, whichever occurs first.

(2) Pursuant to KRS 157.360(2), the Superintendents Annual Attendance Report (SAAR) for the school year shall be submitted to the department through the statewide student information system by June 30 of each year.

Section 8. Nonresident Pupils.

(1)

- (a) A written agreement executed by local boards of education for enrollment of nonresident pupils as provided by KRS 157.350(4)(a) shall be filed in both the attending district and the resident district no later than October 1 of the school year prior to the school year to which it will apply.
- (b) The written agreement shall include the specific terms to which the districts have agreed.
- (c) A list of the names of all nonresident pupils enrolled in the attending district covered by the agreement shall be filed in both the attending district and the resident district not later than November 1 of the school year covered by the agreement.
- (d) A change may be made to the original nonresident pupil agreement up to the close of the school year to include the nonresident pupils enrolling after the close of the second school month. The amendment shall be filed in both the attending district and the resident district no later than June 30 of each year.
- (2) A list of the names of all nonresident pupils whose parent is an employee of the district as provided by KRS 157.350(4)(c) and who are not covered by the nonresident agreement shall be filed in both the attending district and the resident district not later than November 1 of the school year.
- (3)
- (a) If an agreement cannot be reached for the enrollment of nonresident pupils as provided in KRS 157.350(4)(a), a local board of education may file an appeal to the commissioner no later than October 15 of the school year prior to the school year to which an agreement would apply.
- (b) A local board of education shall file its appeal to the commissioner in person or by mail at the following address: Commissioner of Education; Nonresident Student Appeal; 300 Sower Boulevard, 5th Floor; Frankfort, Kentucky 40601. A local board of education filing an appeal to the commissioner shall include written arguments and documents in support of its position.
- (c) Upon receipt of an appeal pursuant to KRS 157.350(4)(a), the commissioner shall notify the local boards of education involved in the dispute and provide a deadline not to exceed twenty (20) calendar days for the responding local board of education to file written arguments and documents supporting its position. The commissioner shall issue a written decision settling the dispute within thirty (30) calendar days following the deadline for the responding local board of education to file written arguments and documents supporting its position.
- (4)
- (a) A local board of education may appeal the commissioner's written decision to the state board of education by filing a notice of appeal and request for hearing no later than fifteen (15) calendar days following issuance of the commissioner's written decision.
- (b) A notice of appeal and request for hearing from a local board of education shall include:
1. The name of the school district filing the notice of appeal and request for hearing;
 2. The case number, if any, assigned to the commissioner's written decision;
 3. The date of the commissioner's written decision;
 4. A statement of the issues which form a basis for the notice of appeal and request for hearing; and
 5. The signature of the local board of education chair or counsel authorized to act on behalf of the local board of education.
- (c) A local board of education shall file its notice of appeal and request for hearing in person or by mail at the following address: Kentucky Board of Education; General Counsel; Nonresident Student Appeal; 300 Sower Boulevard, 5th Floor; Frankfort, Kentucky 40601.

(5)

(a) Upon receipt of a notice of appeal and request for hearing, a notice of hearing pursuant to KRS 13B.050 shall be issued and a hearing officer shall be assigned pursuant to KRS 13B.030.

(b) Following issuance of a notice of hearing and assignment of a hearing officer as set forth in subsection (5)(a) of this section, the hearing officer shall preside over the matter and schedule an administrative hearing pursuant to KRS Chapter 13B to conclude no later than sixty (60) calendar days following the notice of hearing described in subsection (5)(a) of this section.

(c) Following conclusion of administrative hearings not conducted before a quorum of the state board, the hearing officer shall issue a recommended order to the state board of education pursuant to KRS 13B.110.

(d) Parties may file exceptions to the hearing officer's recommended order pursuant to KRS 13B.110.

(e) Following receipt of the hearing officer's recommended order and any exceptions filed by the parties, or following conclusion of the administrative hearing if conducted before a quorum of the state board of education, the state board of education shall issue a final order pursuant to KRS 13B.120.

Section 9. Weather-related Low Attendance Days.

(1) The SAAR may:

(a) Substitute the prior year's average daily attendance for up to ten (10) designated weather-related low attendance days; and

(b) Shall constitute certification that the low attendance was due to inclement weather, in accordance with KRS 157.320(17).

(2) Documentation that the low attendance was due to inclement weather shall be retained at the central office.

Section 10. Nontraditional Instruction Program Health and Safety Closings.

(1) The SAAR may:

(a) Substitute the prior year's average daily attendance for up to ten (10) designated instructional days, in accordance with KRS 158.070(10); and

(b) Shall constitute certification that the low attendance was due to health and safety reasons.

(2) Documentation that the low attendance was due to health and safety reasons shall be retained at the central office.

(3) Days granted in this section shall be in addition to any days granted under Section 9 of this administrative regulation.

Section 11. Original Source of Attendance Data.

(1) The school's records of daily attendance and teacher's monthly attendance reports, daily and class period absentee lists, pupil entry and exit logs, and the Home/Hospital Program Form, shall be the original source of attendance data for all pupils enrolled in the public common schools and shall be verified at the end of each school month.

(2) The school's records of daily attendance and teachers' monthly attendance reports shall be signed by a designated certified person within the elementary or secondary school who shall be responsible for verifying and certifying the state attendance documents for accuracy.

(3) The school's records of daily attendance and tenth month teacher's monthly attendance reports shall be retained at least twenty (20) years. The daily and class period absentee lists, and pupil entry and exit logs shall be retained at least two (2) full school years after the current school year.

Section 12. Enrollment Codes. The following entry, reentry, and withdrawal codes shall be used to indicate the enrollment status of pupils:

- (1) E01 - A pupil enrolled for the first time during the current year in either a public or nonpublic school in the United States;
- (2) E02 - A pupil previously enrolled during the current school year in either a public or nonpublic school in another state who has not previously enrolled in Kentucky during the current school year;
- (3) E03 - A pupil enrolling for the first time during the current school year in either a public or nonpublic school, who withdrew as a W07, W24 or W25 for previous school years;
- (4) R01 - A pupil received from another grade or grade level in the same school year, or having a change in schedule structure or enrollment service type;
- (5) R02 - A pupil received from another public school in the same public school district;
- (6) R06 - A pupil reentering the school after dropping out, discharge, or expulsion from a school district in Kentucky during the current school year, who has not entered any other school during the intervening period;
- (7) R20 - A pupil previously enrolled in a home school in Kentucky during the current school year;
- (8) R21 - A pupil previously enrolled in any public or nonpublic school (excluding home schools) in Kentucky during the current school year;
- (9) W01 - A pupil transferred to another grade in the same school or with grade level changes in the same school mid-year, or with a change in schedule structure or enrollment service type. The reentry code to use with W01 shall be R01;
- (10) W02 - A pupil transferred to another public school in the same public school district. The reentry code to use with W02 shall be R02;
- (11) W07 - A pupil withdrawn due to those communicable medical conditions that pose a threat in school environments listed in 902 KAR 2:020, Section 2(1), accompanied by a doctor's statement certifying the condition, or any other health-related condition for which the pupil is too ill to participate in regular school attendance, local homebound instructional services or hospital setting instructional services, or if the pupil has obtained a doctor's statement certifying the condition. The reentry code to use with W07 shall be R06;
- (12) W08 - A pupil withdrawn due to death;
- (13) W12 - A pupil under the jurisdiction of the court. For purposes of the W12 code, a pupil may be considered under the jurisdiction of the court on the day the petition is filed with the court. The reentry code to use with W12 shall be R06. For accountability purposes, a W12 shall be considered a dropout if the district cannot substantiate enrollment in the proper educational setting as designated by the court;
- (14) W17 - An entry level pupil in the primary program, withdrawn during the first two (2) months enrolled due to immaturity or mutual agreement by the parent, guardian or other custodian and the school in accordance with 704 KAR 5:060;
- (15) W20 - A pupil transferred to a home school. The reentry code to use with W20 shall be R20;
- (16) W21 - A pupil transferred to a nonpublic school (excluding home school). The reentry code to use with W21 shall be R21;
- (17) W22 - A pupil who has transferred to another Kentucky public school district and for whom a request for pupil records has been received or enrollment has been substantiated;
- (18) W23 - A pupil withdrawn for a second or subsequent time who initially withdrew as a W24 or W25 during the current school year;
- (19) W24 - A pupil who has moved out of this public school district for whom enrollment elsewhere has not been substantiated or failed to attend on the first day of school in a

district but thereafter enrolled in the district;

(20) W25 – A pupil who is at least eighteen (18) years of age and has withdrawn from public school;

(21) W26 - A pupil who has withdrawn from school after completing a secondary GED program and receiving a GED certificate;

(22) W27 – A pupil who has withdrawn from school and subsequently received a GED;

(23) W28 - A pupil who has reached the maximum age for education services without receiving a diploma or an alternative high school diploma;

(24) W29 - A pupil who has moved out of state or out of the United States;

(25) W30 - A pupil with an IEP enrolled in Grade 14 who has previously received an alternative high school diploma, re-enrolled, and withdrew in the middle of the reporting school year;

(26) C01 - A pupil who completes the school year in the school of the most current enrollment;

(27) G01 - A pupil who graduates in less than four (4) years;

(28) G02 - A pupil who graduates in four (4) years;

(29) G03 - A pupil who graduates in five (5) or more years;

(30) G04 - A pupil who graduates in six (6) or more years; and

(31) NS - A pupil who completed the prior year with a C01 and was expected to enroll in the district but did not enroll by October 1 of the current year whose enrollment elsewhere cannot be substantiated.

Section 13. Suspension.

(1) For a pupil who has been suspended, a code of S shall be used to indicate the days suspended.

(2) Suspension shall be considered an unexcused absence.

Section 14. Ethnicity. The ethnicity of each pupil shall be designated as either Hispanic/Latino or not Hispanic/Latino. The designation shall be "Hispanic/Latino" if the person is of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture of origin regardless of race. The term "Spanish origin" may be used in addition to "Hispanic/Latino".

Section 15. Racial Category Codes. One (1) or more of the following racial codes shall be used to indicate the racial category of pupils:

(1) White - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East;

(2) Black or African American - A person having origins in any of the black racial groups of Africa;

(3) Asian - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, or Vietnam;

(4) American Indian or Alaskan Native - A person, having origins in any of the original peoples of North America and South America (including Central America), who maintains cultural identification through tribal affiliation or community attachment; and

(5) Native Hawaiian or other Pacific Islander - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Section 16. Withdrawal and Transfer Records. (1) The request for records and other information involving the withdrawal and transfer of pupils shall be processed by the local superintendent or his or her designee pursuant to KRS 159.170, and shall be maintained in the pupil's permanent file.

Section 17. Incorporation by Reference.

(1) "Home/Hospital Program Form", October 2019, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(23 Ky.R. 2352; Am. 2722; eff. 1-9-1997; 25 Ky.R. 1137; 1597; eff. 1-19-1999; 27 Ky.R. 1871; 2439; eff. 3-19-2001; 29 Ky.R. 2349; 29 Ky.R. 2349; 2685; eff. 4-15-2003; 30 Ky.R. 2380; 31 Ky.R. 76; eff. 8-6-2004; 32 Ky.R. 1771; 2009; eff. 6-2-2006; 36 Ky.R. 466; 1212; eff. 1-4-2010; 37 Ky.R. 2291; 2572; eff. 6-3-2011; 40 Ky.R. 1362; 1732; eff. 3-7-2014; 46 Ky.R. 2137, 2633; eff. 6-30-2020; 48 Ky.R. 995; eff. 4-5-2022.)

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).

JASON E. GLASS, Ed.D., Commissioner & Chief Learner

LU YOUNG, Chairperson

APPROVED BY AGENCY: August 9, 2021

FILED WITH LRC: August 11, 2021 at 3:45 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on October 26, 2021, at 10am in the State Board Room, 5th Floor, 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five (5) working days 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 canceled. 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 October 31, 2021. 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.