

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

**704 KAR 3:535. Full-time enrolled online, virtual and remote learning programs.**

RELATES TO: KRS 156.070, 156.160, 158.070, 158.1413, 158.4416, 158.6451, 160.345, 160.380

STATUTORY AUTHORITY: KRS 156.070, 156.160

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 authorizes the Kentucky Board of Education to have management and control of programs operated in the common schools. KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations establishing standards which school districts shall meet in program service to students. This administrative regulation establishes minimum requirements for the operation of full-time enrolled online, virtual and remote learning programs in school districts for grades K-12.

**Section 1. Definitions.**

- (1) "Accountable School" is defined by 703 KAR 5:240, Section 1(1).
- (2) "Alternative Education Program" is defined by KRS 160.380(1)(b).
- (3) "Asynchronous learning" means forms of education, instruction, and learning that do not require interaction with others to occur at the same time through a variety of strategies and tools.
- (4) "Child with a disability" is defined by 707 KAR 1:002, Section 1(9).
- (5) "Full-Time Enrolled Online, Virtual and Remote Learning Program" means a public school district program that enrolls K-12 students on a full-time basis, where teachers and students are not in the same physical location and all or most of the instruction is provided online through a combination of synchronous and asynchronous learning strategies. A full-time enrolled online, virtual and remote learning program shall not be classified as an alternative education program as set forth in 704 KAR 19:002.
- (6) "Individual education program" or "IEP" is defined by 707 KAR 1:002, Section 1(34).
- (7) "Individual learning plan" or "ILP" is defined by 704 KAR 19:002, Section 1(6).
- (8) "Synchronous learning" means forms of education, instruction, and learning that occur at the same time through a variety of strategies and tools.
- (9) "Virtual and Performance-Based" means course setup and attendance verification pursuant to 702 KAR 7:125, Section 1(4)(g) and 704 KAR 3:305, Section 6.
- (10) "Voluntary placement" means the placement of a student in an online, virtual and remote learning program at the request of the parent or emancipated student and with the approval of the school district to:
  - (a) Ensure the health and safety of the individual student including the social, emotional, and mental health needs of the student; and
  - (b) Meet the educational needs of the student.

**Section 2. Program Requirements.**

- (1) For any full-time enrolled online, virtual and remote program it operates, school districts shall ensure that:
  - (a) All of the education services and requirements as a physical school to fully support the academic, social, emotional, and mental health needs of students are provided;
  - (b) The online, virtual and remote learning program meets the requirements set forth in 704 KAR 3:305;

- (c) The online, virtual and remote learning program is aligned to the academic and curricular requirements of the district; and
  - (d) A student enrolled in a full-time enrolled online, virtual and remote learning program shall be eligible to participate in one (1) or more types of programs to address student learning needs, which shall include credit acceleration, credit accumulation, and an innovative path to graduation.
- (2) Each local board of education shall adopt and annually review policies and procedures for the operation of each full-time enrolled online, virtual and remote learning program within the district. Locally-adopted policies and procedures shall include:
- (a) The purpose of the program, including the ways the program supports the district's postsecondary readiness goals for students;
  - (b) Locally defined eligibility criteria, as appropriate;
  - (c) Procedures for enrolling students in the program, including procedures to ensure voluntary placement;
  - (d) Procedures for transitioning students out of the program;
  - (e) Procedures for regular, periodic monitoring of the program by the district;
  - (f) Procedures for the development and implementation of student ILPs as required by 704 KAR 3:305; and
  - (g) Implementation of an application and on-boarding process to ensure students and families understand the expectations for students in a full-time enrolled online, virtual and remote learning program and a determination of candidacy.
- (3) Only students with determined appropriate digital access and support beyond the school campus shall be candidates for the full-time enrolled online, virtual and remote learning program. The district shall ensure all students enrolled in the program have appropriate digital access to fully participate.
- (4) Full-time enrolled online, virtual and remote learning program curriculum shall be aligned with the Kentucky Academic Standards established in 704 KAR Chapter 8 and the student learning goals in the ILP.
- (5) Each student enrolled in a full-time enrolled online, virtual and remote learning program shall be subject to the minimum graduation requirements established in 704 KAR 3:305 and any additional local district graduation requirements.
- (6) Each student enrolled in a full-time enrolled online, virtual and remote learning program shall participate in the state-required assessment program and be included in the state accountability system as set forth in 703 KAR Chapter 5.
- (7) A full-time enrolled online, virtual and remote learning program shall be subject to all applicable requirements of 703 KAR 5:225 and Kentucky's Consolidated State Plan implementing the Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds Act of 2015, or its successor.
- (8) Each student participating in a full-time enrolled online, virtual and remote learning program shall be eligible to access extracurricular activities and programs as allowed by local district and school council policies and by 702 KAR 7:065 or other applicable organization rules.
- (9) Each student enrolled in a full-time enrolled online, virtual and remote learning program shall have access to instructional and support resources and services available to other students in the district, which shall include instructional materials, tutoring, intervention, and counseling services, in furtherance of each student's educational program as determined through the development of the ILP.
- (10) The school district shall document each student enrolled in a full-time enrolled online, virtual and remote learning program as non-transported in the state student information system for transportation funding purposes.

### Section 3. Placement of Students.

(1) Enrollment of any student in a full-time enrolled online, virtual and remote learning program shall be a voluntary placement.

(2) A student entering a full-time enrolled online, virtual and remote learning program shall meet the eligibility requirements for the program established by the local board pursuant to Section 2 of this administrative regulation.

(3) Voluntary placement of a child with a disability in a full-time enrolled online, virtual and remote learning program shall be made through the Admissions and Release Committee (ARC) pursuant to 707 KAR 1:320. The ARC shall document the student's voluntary placement in the full-time enrolled online, virtual, and remote learning program in the ARC Conference Summary.

(a) The voluntary placement decisions for a student who has been identified under 29 U.S.C. §794, Section 504 of the Rehabilitation Act of 1973, as amended, shall be made through a team process consistent with the applicable requirements outlined in 34 C.F.R. Part 104.

(b) The district shall fully implement any accommodation required by 29 U.S.C. §794, Section 504 of the Rehabilitation Act of 1973, as amended and any IEP for a child with a disability in a full-time enrolled online, virtual and remote learning program. The district shall ensure the Section 504 Team and Admissions and Release Committee (ARC) was involved in determining how all special education, related services, and accommodations shall be implemented for a child with a disability in the program.

Section 4. Costs and Expenditures. Each district shall use the statewide financial management system and chart of accounts to track costs and expenditures associated with each full-time enrolled online, virtual and remote learning program operating in the district.

Section 5. Data.

(1) Each district shall utilize the student information system to enter data regarding each student in a full-time enrolled online, virtual and remote learning program.

(2) Data collected shall include demographic, programmatic, or other data fields contained in the student information system or required by the department to track and report student enrollment, educational programming, achievement, and transition to and from enrollment in the full-time enrolled online, virtual and remote learning programs. Beginning with the 2025-2026 school year, each student in a full-time enrolled online, virtual and remote learning program shall be enrolled in an accountable school in the state student information system.

Section 6. Personnel.

(1) Full-time enrolled online, virtual and remote learning program teachers and administrators shall be:

(a) Subject to the teacher certification requirements established in KRS 161.020;

(b) Subject to the classified and certified assignment restrictions established in KRS 160.380; and

(c) Employed pursuant to an employee contract with a Kentucky public school district for no less than 185 days and paid pursuant to a single salary schedule as established in KRS 157.350(1) and (3).

(2) The district shall ensure a system of high-quality professional learning on the high-quality instructional resources and on evidence-based instructional practices for virtual learning.

Section 7. Class Size. Full-time enrolled online, virtual and remote learning programs shall meet the requirements set forth in KRS 157.360 and 702 KAR 3:190 for maximum class sizes and exemptions thereto.

Section 8. Student Attendance.

- (1) Students in a full-time enrolled online, virtual and remote learning program authorized by this administrative regulation shall be counted in attendance.
- (2) Attendance for students in a full-time enrolled online, virtual and remote learning program authorized by this administrative regulation shall be collected as follows:
  - (a) Attendance shall be recorded at the course level for middle and high school students by certified teachers;
  - (b) Attendance shall be recorded at least two (2) times each school day for elementary school students with checks three (3) hours apart by certified teachers;
  - (c) Attendance for each course shall be recorded in the student information system attendance tables;
  - (d) Courses shall not be set up as virtual and performance-based;
  - (e) Attendance clerks or other assigned district personnel shall reconcile attendance for each course or period to ensure proper codes are entered for absent students. Attendance event absence codes shall be entered at the office level (for example, doctor excuses or parent excuses); and
  - (f) District attendance records for full-time enrolled online, virtual and remote learning programs shall be subject to audit by the Kentucky Department of Education.
- (3) Students in a full-time enrolled online, virtual and remote learning program shall be subject to the compulsory attendance laws set forth in KRS Chapter 159. School districts operating a full-time enrolled online, virtual and remote learning program shall develop and implement policies to address attendance absences, which shall include:
  - (a) The attendance status of students with an internet outage;
  - (b) The process to return students to in-person instruction for truancy violations; and
  - (c) The district process for actions it shall take pursuant to KRS Chapter 159 for truant students.

#### Section 9. Curriculum, Content, and Instruction.

- (1) The full-time enrolled online, virtual and remote learning program shall provide instruction aligned to the grade-level expectations established in the Kentucky Academic Standards in 704 KAR Chapter 8, including the selection, vetting, and implementation of high-quality instructional resources aligned to the Kentucky Academic Standards and grade-level appropriate assignments. Districts shall maintain evidence of having systemic formative assessment processes in place to:
  - (a) Accurately measure student progress on grade-level standards for students enrolled in a full-time enrolled online, virtual and remote learning program; and
  - (b) Support students enrolled in the full-time enrolled online, virtual and remote learning program needing accelerated learning on grade-level standards within universal instruction as well as those students who need more targeted interventions and supports.
- (2) The full-time enrolled online, virtual and remote learning program shall implement synchronous learning strategies and digital platforms for two-way visual and verbal interactions. Additionally, the full-time enrolled online, virtual and remote learning program shall utilize a learning management system or other digital platforms that allows teachers to monitor student's progress, interactions and engagement with the teacher, and other students online for the review of student work and completion of assignments through both synchronous and asynchronous interactions.
- (3) Students in a full-time enrolled online, virtual and remote learning program shall be assigned a schedule that aligns with the standard day of in-person students. Virtual student schedules shall adhere to the standard day and hour requirements set forth at KRS 158.070.
- (4) The full-time enrolled online, virtual and remote learning program shall ensure attainment of the declarations and goals set forth by KRS 158.6451.

(5) Students in the full-time enrolled online, virtual and remote learning program shall receive access to the essential workplace ethics programs, including characteristics critical to success in the workplace, as established in KRS 158.1413.

Section 10. Virtual and Performance-Based Students. Students with courses utilizing virtual and performance-based course set up and attendance verification pursuant to 702 KAR 7:125, Section 1(4)(g) and 704 KAR 3:305, Section 7 may be enrolled in the full-time enrolled online, virtual and remote learning program but shall not be covered by this administrative regulation.

(704 KAR 003:535. 49 Ky.R. 699, 1260; eff. 3-7-2023; 51 Ky.R. 567; eff. 6-3-2025.)

*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).*

*DR. ROBBIE FLETCHER, Commissioner*

*SHARON PORTER ROBINSON, Chairperson*

APPROVED BY AGENCY: August 12, 2024

FILED WITH LRC: August 13, 2024 at 3:00 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held October 23, 2024 at 10:00 am, in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays 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 cancelled. 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, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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](mailto:regcomments@education.ky.gov).