EDUCATION AND LABOR CABINET
Board of Education
Department of Education
(Amended at ARRS Committee)

780 KAR 3:072. Attendance, compensatory time, and leave for certified and equivalent service.

RELATES TO: KRS 156.808, Chapter 337, 29 C.F.R. 825, 29 U.S.C. 201-219
STATUTORY AUTHORITY: KRS 156.808(3)(g)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.808 requires the Kentucky Board of Education to promulgate administrative regulations establishing personnel policies and procedures for all certified and equivalent staff, including administrative, teaching, and supervisory staff in the Office of Career and Technical Education central office and state-operated area technology centers. KRS 156.808(3)(g) requires the Kentucky Board of Education to promulgate administrative regulations for the certified and equivalent staff of state-operated area technology centers governing attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence. The Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq., as implemented by 29 C.F.R. Part 825, requires the granting of family and medical leave to eligible employees. This administrative regulation establishes those leave requirements.

Section 1. Attendance.

(1) A full-time employee shall be required to work thirty-seven and one-half (37.5) hours per week for any positions unless otherwise specified by the appointing authority.

(2) A full-time employee shall fulfill a daily work obligation of seven and one-half (7.5) hours. Exceptions to the schedule may be granted on a temporary basis with the supervisor's authorization or on a permanent basis with the approval of the appointing authority.

(3) The normal work day for a school-based employee shall coincide with the appropriate school schedule as recommended by the principal and approved by the associate commissioner for career and technical education.

(4) The associate commissioner for career and technical education may require an employee to work hours and work days other than the normal schedule including an inclement weather schedule if it is in the best interest of the agency.

(5) An employee who works within a division which requires more than one (1) shift per day, or seven (7) days a week operation, may be reassigned from one (1) shift to another and from one (1) post to another or alternate days to meet staffing requirements, or to maintain or provide essential services of the agency, or to meet scheduling needs of students. An employee shall be given as much advance notice as possible when schedules are changed.

(6) The employee shall give timely notice to the employees' immediate supervisor in advance of absence from a work station with the exception of emergencies.

Section 2. Compensatory Leave.

(1) Accrual of compensatory leave.

(a) An appointing authority shall comply with the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. Chapter 8.

(b) An employee, except teachers and principals, who is directed to, or who requests and is authorized to, work in excess of the prescribed hours of duty shall be granted compensatory leave subject to the provisions of the Fair Labor Standards Act, the Kentucky Revised Statutes and this administrative regulation.

(c) An employee, except teachers and principals, deemed to be "exempt" under the provisions of the FLSA shall accumulate compensatory time on an hour-for-hour basis for hours actually worked in excess of the regular work schedule. Teachers and principals shall not accumulate compensatory time.

(d) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain the compensatory leave in the receiving agency. The compensatory leave balance shall be frozen until the employee leaves the teaching or principal position.

(2) Reductions in compensatory leave balances.

(a) An appointing authority may require an employee who has a balance of at least 100 hours compensatory leave to use compensatory leave before annual leave, unless the employee's annual leave balance exceeds the maximum number of hours that may be carried forward under Section 3(2)(f) of this administrative regulation, and shall otherwise allow the use of compensatory leave if it shall not unduly disrupt the operations of the agency.

(b) If an employee's prescribed hours of duty are normally less than forty (40) hours per week, the employee shall receive compensatory leave for the number of hours worked that:

1. Exceed the number of normally prescribed hours of duty; and
2. Do not exceed the maximum amount of 200 compensatory hours.

(c) Upon separation from state service, an employee shall be paid for all unused compensatory leave at the greater of the:

1. Regular hourly rate of pay; or
2. Average regular rate of pay for the final three (3) years of employment.

Section 3. Annual and Personal Leave.

(1) Accrual of annual leave.

(a) Each full-time employee, except teachers and principals, shall accumulate annual leave at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 day per month
60-119 months	1 1/4 days per month
120-179 months	1 1/2 days per month
180-239 months	1 3/4 days per month
240 months & over	2 days per month

(b) A full-time employee shall have worked, or been on paid leave, other than educational leave with pay, for 100 or more regular hours per month to accrue annual leave.

(c) Annual leave shall be accumulated only in the months in which the employee is hired to work.

(d) Accrued leave shall be credited on the first day of the month following the month in which the annual leave is earned.

(e) In computing months of total service for the purpose of earning annual leave, only the months for which an employee earned annual leave shall be counted.

(f) An employee, who retired from a position covered by a state-administered retirement system, who is receiving retirement benefits and who returns to state service, shall not receive credit for annual months of service prior to retirement.

(g) A former employee who is appointed, reinstated, or re-employed, other than a former employee receiving benefits under a state-administered retirement system, shall

receive credit for prior annual months of service.

(h) An employee dismissed for cause who has been reinstated to state service shall receive credit for annual months of service prior to dismissal, except if the dismissal resulted from a violation of KRS 156.838.

(i) Part-time, temporary, or seasonal employees shall not be entitled to annual leave.

(2) Personal Leave.

(a) Teachers and principals shall be entitled to twenty-two and one-half hours (22.5) of personal leave annually. Personal leave shall be credited at the beginning of each school year. Any unused personal leave in accordance with this section shall be converted to sick leave at the end of each school year.

(b) Part-time, temporary, or seasonal employees shall not be entitled to annual leave.

(c) Personal leave shall be prorated for employees who are employed after the first day of the calendar year based on the number of contract days they will have in the remainder of the calendar year.

(3) Use and retention of annual and personal leave.

(a) Annual leave shall be used in increments of hours or of one-quarter (1/4) hours, except for teachers and principals, who shall use personal leave in three and three-quarter hour (3.75) increments.

(b) Except as provided in paragraph (c) of this subsection, an employee who makes a timely request for annual or personal leave shall be granted annual or personal leave by the appointing authority, up to at least the amount of time earned that year, if the operating requirements of the agency permit.

(c) An appointing authority may require an employee who has a balance of at least 100 hours of compensatory leave to use compensatory leave before the employee's request to use annual leave is granted, unless the employee's annual leave balance exceeds the maximum number of hours that may be carried forward under Section 3(2)(f) of this administrative regulation.

(d) Absence due to sickness, injury, or disability in excess of the amount available for those purposes shall, at the request of the employee, be charged against annual leave or personal leave.

(e) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain his accumulated annual leave in the receiving agency.

(f) Annual leave may be carried from one (1) calendar year to the next as provided in this paragraph:

Months of Service	Maximum Amount
0-59 months	Thirty (30) workdays
60-119 months	Thirty-seven (37) workdays
120-179 months	Forty-five (45) workdays
180-239 months	Fifty-two (52) workdays
240 months and over	Sixty (60) workdays

(g) Annual leave in excess of the maximum amounts specified in paragraph (f) of this subsection shall be converted to sick leave at the end of the calendar year or upon retirement, whichever comes first.

(h) The amount of annual leave that may be carried forward and the amount of annual leave that may be converted to sick leave shall be determined by computing months of service as provided by subsection (1)(e) of this section.

(4) Annual and personal leave on separation.

(a) As set forth in KRS 161.780, an employee who is separated by proper resignation or retirement shall be paid in a lump sum for accumulated annual leave not to exceed the amounts established by subsection (2)(f) of this section. Following payment of annual leave at resignation, leave remaining after the payment of the maximum provided shall be removed from the balance. A teacher or principal who is separated by proper resignation or retirement shall be paid in a lump sum for accumulated personal leave not to exceed twenty-two and one-half hours (22.5).

(b) An employee who is laid off shall be paid in a lump sum for all accumulated annual, or personal, or annual and personal leave. Payment for personal leave shall not exceed twenty-two and one-half hours (22.5).

(c) An employee in the unclassified service who resigns or terminates one (1) workday and returns to certified and equivalent service the next workday shall retain accumulated annual leave in the receiving agency.

(d) An employee who has been dismissed for cause related to misconduct or who has failed, without proper excuse, to give proper notice of resignation or retirement shall not be paid for accumulated annual or personal leave.

(e) Notice of separation by resignation shall be submitted to the supervisor in written form and forwarded to the Personnel/Payroll Officer.

(f) Certified and equivalent employees seeking to resign or terminate contracts in force shall do so in compliance with KRS 161.780.

(g) Upon the death of an employee, the employee's estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual, or personal, or annual and personal leave. Payment for personal leave shall not exceed twenty-two and one-half hours (22.5).

(h) An employee may request in writing that accumulated annual leave not be paid upon resignation, and that all or part of the amount of his accumulated annual leave that does not exceed the amount established by subsection (2)(f) of this section be waived, if:

1. The employee resigns, or is laid off because of an approved plan of privatization of the services he performed; and
2. The successor employer has agreed to credit the employee with an equal amount of annual leave.

Section 4. Sick Leave.

(1) Accrual of sick leave.

(a) An employee, except teachers, principals, and part-time employees, shall accumulate sick leave with pay at the rate of one (1) working day per month.

(b) An employee, except teachers and principals, shall have worked or been on paid leave, other than educational leave, for 100 or more regular hours in a month to accrue sick leave.

(c) An employee, except teachers and principals, shall be credited with additional sick leave on the first day of the month following the month in which the sick leave is earned.

(d) teachers and principals shall be credited with seventy-five (75) hours of sick leave at the beginning of each school year.

(e) A full-time employee, except teachers and principals, who completes 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service. A teacher or principal who completes ten (10) years of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the following school year.

(f) A full-time employee, except teachers and principals, who completes 240 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 240 months of service. A teacher or principal who completes twenty (20) years of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the following school year.

(g) In computing months of total service for the purpose of crediting sick leave, only the months for which an employee earned sick leave shall be counted.

(h) The total service shall be verified before the leave is credited to the employee's record.

(i) An employee, who retired from a position covered by a state-administered retirement system, who is receiving retirement benefits and who returns to state service, shall not receive credit for sick months of service prior to retirement.

(j) A former employee who is appointed, reinstated, or re-employed, other than a former employee receiving benefits under a state-administered retirement system, shall receive credit for the unused sick leave balance credited upon the separation and shall receive credit for prior sick months of service.

(k) An employee dismissed for cause who has been rehired to state service shall receive credit for sick months of service prior to the dismissal, unless the dismissal resulted from a violation of KRS 156.838.

(l) Sick leave may be accumulated with no maximum.

(2) Use and retention of sick leave with pay.

(a) The appointing authority or his designee shall grant or may require the use of accrued sick leave with pay if an employee:

1. Is unable to work due to medical, dental, or optical examination or treatment;

2. Is disabled by illness or injury. The appointing authority or his designee may require the employee to provide a doctor's statement certifying the employee's inability to perform his duties for the days or hours sick leave is requested;

3. Is required to care for or transport a member of the immediate family in need of medical attention for a reasonable period of time. The appointing authority or his designee may require the employee to provide a doctor's statement certifying the employee's need to care for a family member;

4. Would jeopardize the health of himself or others at the work station because of a contagious disease or demonstration of behavior that might endanger the employee or others;

5. Has lost by death a spouse, parent, grandparent, child, brother or sister, or the spouse of any of them, or, if granted by the appointing authority, another relative of close association. Leave under this subparagraph shall be limited to five (5) days; or

6. Requires leave for the birth, placement, or adoption of a child.

(b) At the termination of sick leave with pay, the appointing authority shall return the employee to his former position.

(c) Employees, except teachers and principals, shall use sick leave in increments of one-quarter (1/4) hours.

(d) An employee who is transferred or otherwise moved from the jurisdiction of one (1) agency to another shall retain accumulated sick leave in the receiving agency.

(e) An employee shall be credited for accumulated sick leave if separated by proper resignation, layoff, or retirement as provided in KRS 161.780.

(3) Sick leave without pay.

(a) The appointing authority or his designee shall grant sick leave without pay for the duration of an employee's impairment by injury or illness, if:

1. The total continuous leave does not exceed one (1) year; and

2. The employee has used or been paid for all accumulated annual, compensatory and sick leave, unless he has requested to retain up to ten (10) days of accumulated sick leave.

(b) For continuous leave without pay in excess of thirty (30) working days, excluding holidays, the appointing authority or his designee shall notify the employee in writing of the leave without pay status.

(c) The appointing authority or his designee may require a periodic doctor's statement during the period of leave without pay attesting to the employee's continued inability to perform essential functions of his duties with or without reasonable accommodation.

(d) The appointing authority or his designee may grant sick leave without pay to an employee who does not qualify for family and medical leave provided in Section 5 of this administrative regulation due to lack of service time and who has exhausted all accumulated paid leave if the employee is required to care for a member of the immediate family for a period not to exceed thirty (30) working days.

(e) If an employee has given notice of his ability to resume his duties following sick leave without pay, the appointing authority or his designee shall return the employee to the original position or to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(f) If reasonable accommodation to the employees' duties is requested, the employee shall:

1. Inform the employer; and
2. Upon request, provide supportive documentation from a certified professional.

(g) An employee shall be considered to have resigned if he:

1. Has been on one (1) year continuous sick leave without pay;
2. Has been requested by the appointing authority or his designee in writing to return to work;
3. Is unable to return to his former position;
4. Has been given priority consideration by the appointing authority or his designee for a vacant, budgeted position with the same agency, for which he qualified and is capable of performing its essential functions with or without reasonable accommodation; and
5. Has not been placed by the appointing authority or his designee in a vacant position.

(h) Sick leave granted under this subsection shall not be renewable after the employee has been medically certified as able to return to work.

(i) An employee who has been resigned under paragraph (g) of this subsection shall retain reinstatement privileges.

(4) Workers' compensation.

(a) If an absence is due to illness or injury for which workers' compensation benefits are received, accumulated sick leave may be used to maintain regular full salary.

(b) If paid sick leave is used to maintain regular full salary, workers' compensation pay benefits shall be assigned to the state for the period of time the employee received paid sick leave.

(c) The employee's sick leave shall be immediately reinstated to the extent that workers' compensation benefits are assigned.

(5) Application for sick leave and supporting documentation.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examinations, and for sick leave without pay.

(c) If the employee is too ill to work, the employee shall notify the immediate supervisor or the designee. Failure, without good cause, to do so in a reasonable period

of time shall be cause for denial of sick leave for the period of absence.

(d) The appointing authority or his designee may, for good cause and on notice, require an employee to supply supporting evidence to receive sick leave.

(e) A medical certificate may be required, signed by a licensed practitioner and certifying to the employee's incapacity, examination, or treatment.

(f) The appointing authority or his designee shall grant sick leave if the application is supported by acceptable evidence but may require confirmation if there is reasonable cause to question the authenticity of the certificate or its contents.

Section 5. Family and Medical Leave.The appointing authority or his designee shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601, et seq., and the federal regulations implementing the Act, 29 C.F.R. Part 825.

Section 6. Court Leave.

(1) An employee shall be entitled to court leave during his scheduled working hours without loss of time or pay for the amount of time necessary to:

(a) Comply with a subpoena by a court, administrative agency, body of the federal or state government, or any political subdivision thereof; or

(b) Serve as a juror or a witness, unless the employee or a member of his family is a party to the proceeding.

(2) Court leave shall include necessary travel time.

(3) If relieved from duty as a juror or witness during normal working hours, the employee shall return to work or use annual or compensatory leave.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of his assigned duties.

Section 7. Military Leave.

(1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from the civil duties, to serve under order or training duty without loss of the regular compensation for a period not to exceed the number of working days specified in KRS 61.394 for a federal fiscal year.

(2) The absence shall not be charged against accumulated leave.

(3) Absence that exceeds the number of working days specified in KRS 61.394 for a federal fiscal year shall be charged to annual leave, personal leave, compensatory leave, or leave without pay.

(4) The employee shall provide a copy of the orders requiring the attendance of the employee before military leave is granted.

(5) The appointing authority or his designee shall grant an employee entering military duty a leave of absence without pay for a period of the duty not to exceed six (6) years. Upon receiving military duty leave of absence, all accumulated annual, personal, and compensatory leave shall be paid in a lump sum, if requested by the employee.

Section 8. Voting and Election Leave.

(1) An employee, except teachers and principals, who is eligible and registered to vote shall be allowed, upon prior request and approval, four (4) hours, for the purpose of voting. Teachers and principals shall not be eligible for leave for the purpose of voting.

(2) An election officer shall receive additional leave if the total for election day does not exceed a regular workday.

(3) The absence shall not be charged against leave.

(4) A central office employee who is permitted or required to work during the employee's regular work hours, in lieu of voting leave, shall be granted compensatory leave on an

hour-for-hour basis for the hours during the time the polls are open, up to a maximum of four (4) hours.

Section 9. Special Leave of Absence.

(1) If approved by the associate commissioner for career and technical education, the appointing authority or their designee may grant a leave of absence for continuing education or training.

(a) Leave may be granted for a period not to exceed twenty-four (24) months.

(b) If granted, leave shall be with pay if the employee enters into a service commitment contract, or without pay in the absence of a service commitment contract.

(c) Leave shall be restricted to attendance at a college, university, vocational or business school for training in subjects that relate to the employee's work and will benefit the state.

(2) The appointing authority or his designee may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to the state.

(3) The appointing authority or his designee may place an employee on special leave with pay for investigative purposes for a period of time not to exceed sixty (60) working days pending an investigation into allegations of employee misconduct.

(a) The employee shall be notified in writing by the appointing authority or his designee that he is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(b) If the investigation reveals no misconduct on behalf of the employee, all records relating to the investigation shall be purged from the Office of Career and Technical Education.

(c) The appointing authority or his designee shall notify the employee, in writing, of the completion of the investigation and the action taken. This notification shall be made to the employee, whether the employee has remained in state service, or has voluntarily resigned in the interim.

Section 10. Absence Without Leave.

(1) An employee who is absent from duty without prior approval shall report the reason for the absence to the supervisor immediately.

(2) Unauthorized or unreported absence shall:

(a) Be considered absence without leave;

(b) Be treated as leave without pay for an employee covered by the provision of the Fair Labor Standards Act; and

(c) Constitute grounds for disciplinary action.

(3) An employee who has been absent without leave or notice to the supervisor for a period of five (5) working days shall be considered to have resigned the employment.

Section 11. Absences Due to Adverse Weather.

(1) An employee, who is not designated for mandatory operations, and who chooses not to report to work or chooses to leave early in the event of adverse weather conditions, shall have the time of the absence reported as:

(a) Charged to annual, personal, or compensatory leave;

(b) Taken as leave without pay, if annual and compensatory leave has been exhausted; or

(c) Deferred in accordance with subsections (3) and (4) of this section.

(2) An employee who is on prearranged annual, personal, emergency, compensatory or sick leave shall charge leave as originally requested.

(3) If operational needs allow, except for an employee in mandatory operations, management shall make every reasonable effort to arrange schedules whereby an

employee shall be given an opportunity to make up time not worked rather than charging it to leave.

(4) An employee shall not make up work if the work would result in the employee working more than forty (40) hours in a workweek.

(a) Except as provided in this paragraph, time lost shall be made up within 123 days of the occurrence of the absence. If it is not made up within 123 days, annual, personal, or compensatory leave shall be deducted to cover the absence, or leave without pay shall be charged if no annual or compensatory leave is available.

(b) If an employee transfers or separates from employment before the leave is made up, the leave shall be charged to annual, personal, or compensatory leave or deducted from the final paycheck.

(5) If adverse weather conditions occur, and it becomes necessary for authorities to order evacuation or shut down the place of employment, the provisions established in this subsection shall apply.

(a) An employee who is required to evacuate or who would report to a location that has been shut down shall not be required to make up the time that is lost from work during the period officially declared hazardous due to adverse weather conditions.

(b) An employee who is required to work in an emergency situation shall be compensated pursuant to the provisions of Section 2 of this administrative regulation and the Fair Labor Standards Act as amended.

(6) Adverse weather leave shall not be used by school-based employees when school is in session. Adverse weather leave may be used by school-based employees under extraordinary circumstances, as determined by the associate commissioner for career and technical education.

Section 12. Blood Donation Leave.

(1) An employee who, during regular working hours, donates blood at a licensed blood center certified by the Food and Drug Administration shall receive four (4) hours leave time, with pay, for the purpose of donating and recuperating from the donation.

(2) Leave granted under this section shall be used at the time of the donation unless circumstances as specified by the supervisor require the employee to return to work. If the employee returns to work, the unused portion of the leave time shall be credited as compensatory leave.

(3) An employee shall request leave in advance to qualify for blood donation leave.

(4) An employee who is deferred from donating blood shall not:

(a) Be charged leave time for the time spent in the attempted donation; and

(b) Qualify for the remainder of the blood donation leave.

(5) School-based employees shall not receive blood donation leave.

Section 13. Emergency Leave. Teachers and principals shall be entitled to twenty-two and one-half (22.5) hours of emergency leave.

(1) Emergency leave shall be credited at the beginning of each school year. Any unused emergency leave in accordance with this section shall expire at the end of each school year. Remaining emergency leave balances shall not be paid out upon separation of an employee. Emergency leave shall be prorated for employees who are employed after the first day of the calendar year based on the number of contract days they will have in the remainder of the calendar year.

(2) Emergency leave may be used due to death, illness, injury, or certain other urgent matters. Teachers and principals shall give as much advance notice as possible to their supervisor prior to using emergency leave.

(3) Emergency leave shall be used in three and three-quarter hour (3.75) increments.

Section 14. Eligibility for State-paid Health and Life Insurance Benefits.

(1) A twelve (12) month employee is eligible for state-paid life insurance benefits under the provisions of KRS Chapter 156 if they have worked or been on paid leave or family and medical leave, other than educational leave, during any part of the previous month.

(2) A twelve (12) month employee is eligible for state-paid health insurance benefits under the provisions of KRS Chapter 156 if they have worked or been on paid leave or family and medical leave, other than educational leave, during any part of the previous pay period.

(3) A teacher or principal is eligible for state-paid life insurance benefits under the provisions of KRS Chapter 156 if they have worked or been on paid leave or family and medical leave, other than educational leave, during any part of the previous month, except between the last day of school of the previous year and first day of school of the following year.

(4) A teacher or principal is eligible for state-paid health benefits under the provisions of KRS Chapter 156 if they have worked or been on paid leave or family and medical leave, other than educational leave, during any part of the previous pay period, except between the last day of school of the previous year and first day of school of the following year.

(5) A teacher or principal is eligible for state-paid health and life insurance benefits under the provisions of KRS Chapter 156 and shall be entitled to state-paid health and life insurance benefits between the last day of school of the previous year and first day of school of the following year.

(6) If an employee is unable to work and uses paid leave to qualify for state-paid health and life insurance benefits, the employee shall use paid leave days consecutively.

(26 Ky.R. 2158; Am. 27 Ky.R. 102; eff. 7-17-2000; 35 Ky.R. 1858; 2230; eff. 5-1-2009; 36 Ky.R. 928; 1-4-2010; 44 Ky.R. 672, 929; eff. 12-1-2017; 51 Ky.R. 570, 1113; eff. 12-10-2024.)

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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 regcom-ments@education.ky.gov.