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

704 KAR 4:010. Physical education.

RELATES TO: KRS ~~[156.031,]~~156.160(1)
STATUTORY AUTHORITY: KRS 156.070, 156.160
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: ~~[KRS 156.031 requires that administrative regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary and resubmitted to the Legislative Research Commission prior to December 30, 1990; and]~~KRS 156.160(1)(h) requires the Kentucky Board of Education~~[State Board for Elementary and Secondary Education]~~ to adopt administrative regulations governing~~[course of study,]~~ medical inspection, physical and health education and recreation, and other ~~[rules and administrative]~~regulations ~~[deemed]~~necessary or advisable for the protection of the physical welfare and safety of the public school children. This administrative regulation implements that duty relative to health and physical education instruction.

Section 1. Elementary and secondary physical education programs or courses shall follow the descriptions and requirements as adopted in 704 KAR 8:050~~[recorded in the physical education section of the "Program of Studies for Kentucky Schools, Grades K-12," as adopted in 704 KAR 3:304,]~~ and in the minimum ~~[unit]~~requirements for high school graduation set forth in 704 KAR 3:305.

Section 2.

(1) A local board of education may authorize a child whose parents or guardian present a certificate from a licensed physician to the effect that because of the child's physical condition, participation in the required one-half (1/2) credit~~[unit]~~ physical education course in high school is not in the best interest of the child, to substitute a physical education course which is within the capabilities of the child as specified by the child's physician.

(2)

(a) A local board of education is authorized to exempt any child from the graduation requirements for physical education when the local board receives an affidavit from the parents of the child and the leader of a church certifying that the child is a member of the church or religious denomination, the teachings of which are opposed to the physical education curriculum or attire. The affidavit shall identify the church tenet giving rise to such conscientiously held opposition, and any exemption hereunder shall not reduce the total number of credits necessary for graduation under 704 KAR 3:305.

(b) The local school district may, in the alternative, maintain the requirement of physical education for graduation, by allowing for more modest dress or classes segregated by sex for those students having conscientious religious objections if such will reasonably accommodate such objections.

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

DR. ROBBIE FLETCHER, Commissioner

SHARON PORTER ROBINSON, Chair

APPROVED BY AGENCY: June 10, 2025
FILED WITH LRC: June 11, 2025 at 3:39 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held August 27, 2025 at 10:00 a.m., 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 August 31, 2025. 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, KY 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Todd G. Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does:

704 KAR 4:010 provides requirements for local boards of education in authorizing substitutions or exemptions to the requirements provided in 704 KAR 8:050, Kentucky Academic Standards for Physical Education and the half-credit physical education requirement for high school graduation pursuant to 704 KAR 3:305 in cases of health conditions or religious objection.

(b) The necessity of this administrative regulation:

KRS 156.160(1)(h) requires the Kentucky Board of Education (KBE) to promulgate an administrative regulation establishing standards and governing medical inspection, physical and health education and recreation, and for the protection of the physical welfare and safety of the public school children.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 156.160(1)(h) requires the Kentucky Board of Education (KBE) to promulgate an administrative regulation establishing standards and governing medical inspection, physical and health education and recreation, and for the protection of the physical welfare and safety of the public school children. This administrative regulation implements that duty relative to the requirements of local boards of education in allowing for substitutions or exemptions for students with physical conditions or religious objections related to physical education instruction.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

To ensure the protection of the physical welfare and safety of public school students as provided in KRS 156.160(1)(h), 704 KAR 4:010 provides requirements for local boards of education in authorizing substitutions or exemptions to the requirements provided in 704 KAR 8:050, Kentucky Academic Standards for Physical Education and the half- credit physical education requirement for high school graduation pursuant to 704 KAR 3:305 in cases of physical conditions or religious objection.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

704 KAR 4:010 requires technical amendments to conform to current statutory language provided in KRS 156.160(1). Amendments to Section 1 removes an outdated reference to 704 KAR 3:304 “Program of Studies for Kentucky Schools, Grades K-12,” which is no longer in law. Language under Section 1 has been updated to reference current regulatory requirements provided in 704 KAR 8:050, Kentucky Academic Standards for Physical Education. All proposed amendments to 704 KAR 4:010 are non-substantive in nature and provide technical changes to reflect accurate statutory and regulatory language and references as currently provided in law.

(b) The necessity of the amendment to this administrative regulation:

The regulation requires technical, non-substantive updates to reflect the most current language provided in law.

(c) How the amendment conforms to the content of the authorizing statutes:
The language has been updated to be consistent with the language provided in KRS 156.160(1)(h).

(d) How the amendment will assist in the effective administration of the statutes:
The amendments allow schools and districts to reference language provided within that is current and accurate.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
Local boards of education, schools and districts are affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
The entities identified above in question (3) are not required to take any further action. The amendments are technical in nature to conform to the most current language provided in statute and regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):
Local boards of education, schools and districts will not be impacted by any additional costs as a result of the amendments to the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):
Local boards of education, schools and districts benefit from 704 KAR 4:010 as it provides requirements for local boards of education in authorizing substitutions or exemptions to the requirements provided in 704 KAR 8:050, Kentucky Academic Standards for Physical Education and the half-credit physical education requirement for high school graduation pursuant to 704 KAR 3:305 in cases of physical conditions or religious objection.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:
There are no initial costs anticipated to the Kentucky Department of Education in implementing the administrative regulation except in cases where assistance is requested to support voluntary revisions to local policies.

(b) On a continuing basis:
There are no continuing costs anticipated to the Kentucky Department of Education in implementing the administrative regulation except in cases where assistance is requested to support voluntary revisions to local policies.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:
State and district funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

There will be no increase in fees and additional funding will not be necessary to implement the technical amendments to the administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This regulation does not establish any fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied?

Tiering was not appropriate as the administrative regulation applies equally to all schools and districts.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 156.160(1)(h) requires the Kentucky Board of Education to promulgate an administrative regulation establishing standards and governing medical inspection, physical and health education and recreation, and for the protection of the physical welfare and safety of the public school children.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

Yes, this authority is provided in KRS 156.160.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

KRS 156.160(1)(h) requires the Kentucky Board of Education (KBE) to promulgate an administrative regulation establishing standards and governing course of study, medical inspection, and physical and health education and recreation for the protection of the physical welfare and safety of the public school children.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:The cost to the Kentucky Department of Education for the first year is minimal and may include staff time should assistance be requested to support voluntary revisions to local policies. The amendments are technical in nature do not require any further action.

For subsequent years:The cost to the Kentucky Department of Education for subsequent years is minimal and may include staff time should assistance be requested to support voluntary revisions to local policies. The amendments are technical in nature do not require any further action.

2. Revenues:

For the first year:No revenue in the first year.

For subsequent years:No revenue in subsequent years.

3. Cost Savings:

For the first year:The administrative regulation will not generate cost savings in the first year.

For subsequent years:The administrative regulation will not generate cost saving in subsequent years.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

Local school districts

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:The are no anticipated costs to local boards of education, schools or districts in the first year unless these entities voluntarily choose to

modify their local policies. The amendments to the regulation are technical in nature and do not require any further action.

For subsequent years:The are no anticipated costs to local boards of education, schools or districts in subsequent years unless these entities voluntarily choose to modify their local policies. The amendments to the regulation are technical in nature and do not require any further action.

2. Revenues:

For the first year:No revenue in the first year.

For subsequent years:No revenue in subsequent years.

3. Cost Savings:

For the first year:No cost savings in the first year.

For subsequent years:No cost savings in subsequent years.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):
There are no additional regulated entities.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:Not applicable.

For subsequent years:Not applicable.

2. Revenues:

For the first year:Not applicable.

For subsequent years:Not applicable.

3. Cost Savings:

For the first year:Not applicable.

For subsequent years:Not applicable.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:
There is no anticipated fiscal impact as a result of the administrative regulation unless local boards of education choose to voluntarily modify its local policy.

(b) Methodology and resources used to reach this conclusion:
The regulation has been in place since 1974. The amendments are technical and non-substantive in nature and do not require any further action. Therefore, there is no anticipated fiscal impact unless local boards of education choose to voluntarily modify their local policies.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13):
There is no major economic impact anticipated as a result of the proposed amendments to the regulation.

(b) The methodology and resources used to reach this conclusion:

The regulation has been in place since 1974. The amendments are technical and non-substantive in nature and do not require any further action. Therefore, there is no anticipated fiscal impact unless local boards of education choose to voluntarily modify their local policies.