

701 KAR 5:150. Nontraditional instruction program.

RELATES TO: KRS 158.070

STATUTORY AUTHORITY: KRS 156.029, 156.070, 156.160, 158.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.029(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) "Instructional delivery method" means the delivery system and instructional techniques used in meeting the learning needs of students regardless of their physical location.
- (3) "Minimum school term" or "school term" is defined in KRS 158.070(1)(b).
- (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.
- (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).
- (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.
- (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;
- (c) Explain how the nontraditional instruction plan relates to district goals; and (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)
- (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.

Section 3. Use of Nontraditional Instruction Days.

- (1) 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.
- (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 evidence demonstrating 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.

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 receive an annual site visit from a review team selected and trained by the department. The purpose of the site visit is to monitor the district's progress in implementing the approved nontraditional instruction plan.

(2) If a site visit is conducted by the department, 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 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.
- (4) The commissioner or his designee may revoke approval of a district's nontraditional instruction program as a result of evidence collected pursuant to this section.
- (5) 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 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.
- (45 Ky.R. 1468, 2329; eff. 3-8-2019; 47 Ky.R. 1061, 1554; eff. 5-4-2021.)