

STATEMENT OF EMERGENCY
702 KAR 1:192E.

This emergency administration regulation is being promulgated pursuant to KRS 13A.190(1)(a)(1) to meet an imminent threat to public health, safety, welfare, or the environment. The regulation is necessary to mitigate the spread of COVID-19 in Kentucky public schools, specifically by providing quarantine leave to school district employees during the 2021-2022 school year. Due to promulgation time, an ordinary regulation would not be effective for the remainder of the current school year, resulting in potential hardship to school districts and quarantined employees. School districts currently lack the ability to provide leave to employees placed on quarantine due to COVID-19 exposure. This regulation authorizes local school districts, to provide quarantine leave to full and part-time employees placed on quarantine by a licensed physician, licensed physician's assistant, licensed advanced practice registered nurse, health department, or by the school district. This emergency administrative regulation will be replaced by an ordinary administrative regulation. Pursuant to KRS 13A.190, the administrative agency submitted documentary evidence at the time of filing this emergency regulation which shows the rate of COVID-19 cases among Kentuckians between October 1, 2021 and November 30, 2021, as well as its obligation to promulgate a regulation pursuant to KRS 156.160.

ANDY BESHEAR, Governor
LU S. YOUNG, Chair

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Board of Education
Department of Education
(New Emergency Administrative Regulation)

702 KAR 1:192E. District employee quarantine leave.

RELATES TO: KRS 156.070, 156.160, 160.290

STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance, including regulations for the protection of the physical welfare and safety of public school children, as well as the pay of teachers during absence because of sickness or quarantine. KRS 156.070 provides the Kentucky Board of Education with the management and control of the common schools and all programs operated in those schools. KRS 160.291 authorizes fringe benefit payments by local boards of education which are deemed to be for services rendered for the benefit of the common schools. This administrative regulation establishes paid quarantine leave to employees in response to the COVID-19 emergency. This emergency regulation is necessary to address the imminent threat to public health, safety, and welfare; and to protect human health; while safely and efficiently operating public schools during the 2021-22 school year in light of the COVID-19 public health emergency.

Section 1. COVID-19 Quarantine Leave.

- (1) During the 2021-22 school year, each district board of education shall provide each eligible person employed as a full or part-time employee in the public schools paid leave during the period the employee is placed in quarantine due to exposure to COVID-19. Exposure to COVID-19 shall include exposure to any variant of COVID-19. This leave shall be in addition to any other leave provided by statute or board policy.
- (2) In order to be eligible for leave under this section, the employee shall:
 - (a) Be placed in quarantine due to COVID-19 exposure by a licensed treating physician, physician's assistant, or advanced practice registered nurse, a public health department, the Department for Public Health, or the school district for which the employee works; and
 - (b) Have received either two (2) doses of the Pfizer or Moderna COVID-19 vaccine or a single dose of Johnson & Johnson's Janssen vaccine prior to the quarantine period, present a statement from a treating medical professional that a disability prevents the employee from taking the COVID-19 vaccine, or is prevented from taking the COVID-19 vaccination based on sincerely held religious belief.
- (3) If a school district places an employee on quarantine due to exposure to COVID-19, then the district shall provide the employee with written documentation supporting the quarantine determination.
- (4) A school district may require the employee to provide written documentation from the entity placing the employee in quarantine due to COVID-19 exposure.
- (5) Quarantine leave shall not be used if the employee has an active COVID-19 infection.
- (6) A school district, at its discretion, may determine quarantine leave is unnecessary when an employee can fulfill his or her job duties remotely during the quarantine period.
- (7) In order to shorten the quarantine period, a school district may require an employee on quarantine leave to undergo a COVID-19 test at district expense and provide the results to the district. Such test shall occur no sooner than the earliest date recommended by Centers for Disease Control (CDC) and Department for Public Health quarantine guidelines. A district may require an employee testing negative for COVID-19 to return

to work in accordance with CDC and Department for Public Health quarantine guidelines.

(8) Leave granted pursuant to this section shall not accumulate or carry over beyond the 2021-2022 school year and shall not be transferrable to any other classification of paid leave established by KRS 161.155, KRS 161.154, or local school district policy.

JASON E. GLASS, Ed.D., Commissioner and Chief Learner
LU YOUNG, Chairperson

APPROVED BY AGENCY: December 7, 2021

FILED WITH LRC: December 8, 2021 at 12:35 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on January 27, 2022, at 10:00 am 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 January 31, 2022.

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