

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Review Item:

704 KAR 4:020, School Health Services

Applicable Statute or Regulation:

KRS 156.070, 156.160(1) (g), (h), (i), 156.501, 156.502, 161.145, 214.034, 214.036 and 29 C.F.R. 1910.1030

History/Background:

Existing Policy. This regulation implements several statutory provisions dealing with school health and safety. The regulation describes, for both school district employees and students, the necessary forms that are to be completed and the data that should be maintained for each individual. The purpose of the proposed amendments is to ensure that the regulation is aligned with state and federal law in terms of health data requirements and to reflect current medical terminology. In addition, the forms associated with data collection have been streamlined for greater efficiency.

The proposed amendments include the following changes:

1. Change the regulation number from the Title 704 (Learning Programs Development) series to the Title 702 (District Support Services) series to establish a new School Health Services regulation so that the regulation is within the group of regulations administered by the Office of District Support Services.
2. Change references for nurse practitioner to Advanced Practice Registered Nurse Practitioner throughout to correct the reference and bring it up-to-date.
3. Change the reference to a “valid” immunization certificate to “current” immunization certificate to align this with statutory requirements.
4. Assign KDE form numbers to all documents incorporated by reference.
5. Change the Preventative Health Care Examination forms:
 - Combine the two existing forms into one
 - Include a space on the revised Preventative Health Care Examination form for BMI percentile
6. Remove the requirement for scoliosis screening and all related requirements from the regulation per stakeholder feedback and review of current federal recommendations.
7. Change the Medical Examination of School Employees form. The current form includes a section for health care providers to request family history information from the applicant/employee. The new Genetic Information Nondiscrimination Act (GINA) and related regulations prohibit this request for information from applicants/employees and therefore a change to the form is necessary. The following changes to the form are needed to bring it into compliance:
 - Eliminate the section entitled “Family History (T.B., epilepsy, Diabetes, etc.)”

- Add the following language to the form:
“Pursuant to the Genetic Information Nondiscrimination Act of 2008, it is unlawful for an employer to request genetic information, genetic testing information, family medical history information, or family genetic testing information from an applicant or employee. The medical provider conducting this examination of an applicant/employee of a local school district shall not request, require or purchase this information about the applicant or employee. Any applicant or employee undergoing a medical examination for employment with a local school district shall not provide this information to the medical provider or to the school district.”
8. Change Section 3 of the regulation to allow school districts to maintain electronic copies of the "Pupil's Cumulative Health Record" in the Kentucky Student Information System (KSIS). The KSIS accomplishes all of the requirements that are currently maintained on paper. Allowing the option for electronic records will eliminate a great deal of paperwork for the school districts that wish to maintain the information electronically.
 9. Change the Pupil's Cumulative Health Record form:
 - Include a space on the form to include BMI percentile

Forms that will be updated include:

1. Medical Examination of School Employees (Revised, numbered KDESHS001)
2. Preventative Health Care Examination Form (Revised, numbered KDESHS002)
3. Kentucky Eye Examination Form for School Entry (Numbered KDESHS004)
4. Kentucky Dental Screening Examination Form (Numbered KDESHS005)
5. Pupil's Cumulative Health Record Form (Numbered KDESHS006)

The regulation will come back for final approval in February 2012.

Impact on Getting to Proficiency:

Consolidation of the Entry Level Preventative Health Care Examination form and the Grade 6 Preventative Health Care Examination forms into one form will reduce paperwork and time needed for data entry for schools. The implementation of the proposed changes to the form will provide information on obesity requested by health professionals in the state through inclusion of BMI percentile. Updates to the Medical Examination of School Employees form will meet the statutory requirements in GINA, 29 CFR Part 1635 found at 75 Fed. Reg. 68932-68939. Removal of the requirement for scoliosis screening in response to recommendations gathered during the regulation review process will bring the regulation up to date with current national practices.

Groups Consulted and Brief Summary of Responses:

The KDE legal services team made required revisions to the School District Employees Physical forms that were incorporated to meet the statutory requirements in GINA. Members of the state Head Start Advisory Council and various school districts' early childhood personnel were consulted concerning inclusion of Head Start physicals for entry level primary students and are supportive of this. Proposed changes to the Preventative Health Care Examination forms have been reviewed and are supported by the American Academy of Pediatrics and the Kentucky Department for Public Health. An opportunity

for public review and comment was provided to statewide organizations concerned with student health in Kentucky in August 2011 resulting in two responses. The responses were reviewed by the KDE Health Team and all recommendations were considered. Some changes were made based on those recommendations. The Kentucky Board of Education Health Committee received a presentation and opportunity for review and comment on possible changes to the regulation in September 2011. The Local Superintendents Advisory Council will provide feedback to the KBE on the proposed regulation revisions that will be reported at the December KBE meeting.

Contact Person:

Kay Kennedy, Director
Division of District Support
(502) 564-3930
kay.kennedy@education.ky.gov

Hiren Desai, Associate Commissioner
Office of Administrative Services
(502) 564-1976
hiren.desai@education.ky.gov

Commissioner of Education

Date:

December 2011