



KENTUCKY DEPARTMENT OF EDUCATION

Special Superintendents' Webcast

SUMMARY

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Title

By Jim Gaines – September 9, 2020

Superintendents across the state heard about updated guidance from the Kentucky Department of Education (KDE) that allows for slightly larger groups in school buildings and clarifies transportation for extracurricular activities, along with new guidance on building ventilation and student truancy amid the COVID-19 pandemic.

School superintendents heard details during the weekly [Special Superintendents' Webcast](#).

The Sept. 8 webcast was Kevin C. Brown's last as interim commissioner of education. Brown, who has served as interim commissioner since Dec. 18, 2019, will return to his position with Jefferson County Schools. Jason Glass will take over as permanent commissioner on Sept. 14.

Small Groups and Transportation

An update to the guidance for allowing small groups into school buildings was issued on Sept. 2 in light of new state standards for day care capacity. In the updated [Orientation and Targeted Services](#) guidance, allowable numbers for small groups have increased from nine students and one teacher to 14 students and one teacher, said Kelly Foster, associate commissioner in the KDE Office of Continuous Improvement and Support.

"Of course, everything else around [Healthy at School](#) still needs to be followed," she said.

That includes limiting building occupancy to 15% of normal student capacity.

Updated guidance on [pupil transportation](#) also has been released. Earlier guidance dealt primarily with daily trips to and from school, said Robin Kinney, associate commissioner in KDE's Office of Finance and Operations. The Kentucky Department for Public Health (DPH) would have recommended keeping a 6-foot distance between students for those daily trips, but understood the logistical concerns that created, she said. Instead the guidance offers several configurations for seating, asking districts to space students out "to the extent feasible and practical," while following other mitigation guidelines.

The update, beginning at the bottom of page 5, distinguishes between transporting students to school for in-person classes and trips for extracurricular activities. Extracurricular trips involve fewer students, take place when more buses are available and aren't as constrained in time, therefore they require greater consideration of social distancing, Kinney said. That is substantially different from the need to get large numbers of students to and from school at specific times. School districts also should continue to consult with their local health departments on specific questions, she said.

Ventilation and Truancy Guidance

[Ventilation guidance](#) came out Sept. 8, updating the facilities and logistics guidance from June. It provides a list of resources and best practices for ventilation to help cut down on disease transmission, since the great variety of HVAC systems in Kentucky school buildings need to be addressed differently, Kinney said.

The new KDE guidance links to a recently released school guidance from the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), she said.

The new guidance does not supersede safety laws such as keeping classroom doors locked during instruction, Kinney said. Schools should consult with their local fire marshal and the state school security marshal about specific situations, she said.

New guidance on [truancy and compulsory attendance](#), which was released Sept. 8, directs districts to generally handle truancy issues as they have previously but with some flexibility due to COVID-19, said Matt Ross, policy adviser in KDE's Office of Finance and Operations.

The state is not requiring attendance collection as the basis for future funding; instead, districts must use the attendance data which they chose to use under [Senate Bill 177](#), he said. Under that bill, districts had a choice of using data from 2018-2019 or 2019-2020. But schools do have to collect participation data in Infinite Campus, based on student-teacher interactions for remote learners and attendance for in-person instruction, Ross said.

Health Cautions

Dr. Connie White, DPH deputy commissioner, cautioned school district officials to heed the example of Maine's Big Moose Inn, which on Aug. 7 evaded COVID-19 crowd restrictions to host a large wedding reception. That event led to 140 cases of COVID-19 and three deaths. None of the deaths were among people who actually attended, but rather those who caught the disease from people who had.

White said she hoped districts – as the guardians of the health of their students, faculty and staff while at school – would not seek loopholes in guidance on transportation or other issues.

“Everyone is depending on you to make these right decisions,” she said.

White also warned districts to be aware of Legionella bacteria, which grow in pipes containing stagnant water. Any building that has been closed for more than a week and in which water wasn't regularly running should be checked, she said. Sinks, fountains and HVAC air-cooling towers are particular breeding spots.

COVID-19 Waivers

Some school districts are asking parents to sign waivers before allowing students into in-person classes. KDE does not support requiring waivers for access to public education, Brown said.

Schools should not put parents in that position and such waivers may not be legally valid, he said.

The Kentucky Constitution includes a right to public education and the law requires districts to “act reasonably” in providing that, KDE General Counsel Todd Allen said. Waivers essentially ask parents to waive that standard of reasonable care, which is legally problematic, he said.

Other districts are asking parents to sign a risk acknowledgement form. If that just notifies parents of potential COVID-19 risks, it is probably acceptable, Allen said. But some risks are known while others remain unknown, and the form should cover both without asking for a waiver of liability, he said.

During the June 9 [Special Superintendents’ Webcast](#), the KDE Office of Legal Services outlined school districts’ legal liability and potential immunities, Allen said. Schools should refer to that for further information.

QUESTIONS AND ANSWERS ADDRESSED DURING THE WEBCAST:

Agenda Item: Updated KDE Guidance Document: Orientation and Targeted Services

Presenter: Kelly Foster, associate commissioner, KDE Office of Continuous Improvement and Support

Question: What is the maximum amount of people allowed in group meetings?

Answer: If the questioner is referencing the updated guidance, the new expectation is to limit small group instruction to one teacher and 14 students for no longer than 2 hours, while following all other applicable guidelines.

Agenda Item: Updated KDE Guidance Document: Pupil Transportation

Presenter: Robin Kinney, associate commissioner, KDE Office of Finance and Operations

Question: Can districts just use the guidance for transporting students to and from school when transporting to extracurricular activities?

Answer: Districts are encouraged to look at it differently. Concessions were made because districts have a short window of time to transport more students to and from school. Districts must do what is feasible but be flexible and use best faith effort as you consider increasing social distancing for transportation to and from extracurricular activities.

Question: On page 3 of the transportation guidance, it states students age 5 and up must wear a mask on the bus. Is it a requirement for kindergarten students to wear a mask on the bus but not in class?

Answer: No, kindergarten students are not required to wear a mask on the bus or in class.

Question: Must districts follow the social distancing numbers for athletic and extracurricular transportation (e.g., seven students on a 66-passenger bus) or can districts work with local health departments to develop safe and feasible guidelines?

Answer: The charts are provided to assist with calculations, but districts should use a best faith effort in determining what is feasible. Districts are encouraged to continue working with their local health departments.

Question: If buses can be filled when transporting students to and from school, why can't the same expectations apply to transportation to and from extracurricular activities that are across town and often shorter than a school-day bus ride?

Answer: Districts are required to provide transportation to school, so guidance was developed that would not interfere with that mandate. Athletics are not mandated, so extra mitigations are expected. KDE and DPH are trying to help districts meet operational requirements with the least amount of burden. Social distancing is always the best option, but flexibilities were granted to ease the burden on districts.

Question: Can parents transport their own children to athletic events to limit those being transported on the bus?

Answer: From a safety standpoint, buses are always the preferred option over parent transportation. From a legal perspective, if a local school district has a school-sponsored trip such as an athletic contest, there is a responsibility for the school district to provide a safe means of transportation for the student participants. KRS 161.185 requires staff supervision on "school-sponsored" and "school-endorsed" trips. State regulations seem to support the position that a school bus should always be taken when transporting students whether it is to and from school, extracurricular trips, athletic trips, or school sponsored activities. 702 KAR 5:010, Section 3 states "[a]ll vehicles used for the transportation of pupils shall meet the minimum safety standards for Kentucky School buses of the same model year," with certain exceptions. 702 KAR 5:060 (2) allows school districts to use appropriately certificated common carriers to transport school children to or from school-related events. Nowhere in transportation regulations at 702 KAR Chapter 5 is there any allowance for students riding in something other than a school bus as stated in 702 KAR 5:010. If a local school district has a school sponsored trip such as an athletic contest, there is a responsibility of the school district to provide a safe means of transport for the student participants. As such, KDE has historically advised that student safety dictates that transportation to/from school sponsored/endorsed trips always be in school buses with very few and limited exceptions for extraordinary parent/student circumstances.

With that said, we recognize that we face extraordinary circumstances with COVID-19. Though school districts may decide not to provide transportation to an away school-sponsored athletic event, this is to be highly discouraged since this is a school-sponsored function and since the statute provides a responsibility to supervise students on these school-sponsored trips. If a school district wants to provide the option to parents to transport their own child (not others) to and from school sponsored events, this would be permissible. However, parents should understand that providing private transportation is not required and that the school will provide transportation in the event the parent is unable or unwilling to do so. Furthermore, the parent should understand that while he/she is providing transportation, the student will not be supervised by school staff and that the parent assumes all responsibility for supervision as a result of their choice to provide private transportation. For the parents who voluntarily select this option, this will reduce the transportation load for which the district must provide transportation and allow for social distancing. Furthermore, we anticipate that the number of athletes and spectators will be reduced at these events, further decreasing the overall transportation demand for the district. However, the district should be cautious and consult board counsel to discuss the permissibility and liability concerns if the district is considering making private parent

transportation mandatory for these school sponsored functions. As indicated above, KDE has consistently advised that making parent transportation mandatory for school sponsored trips is inconsistent with statute and regulation.

Question: From an athletic transportation standpoint, how is the bus ride to an athletic event riskier than practicing every day with the same group?

Answer: There are risks when players are on the field and it does not seem to make sense in that context but transporting students for athletic events is different because districts can consider the opportunity for social distancing during transport. Districts are encouraged to use best faith efforts when implementing mitigation strategies that are feasible, practical and possible.

Agenda Item: COVID-19 Updates with the Kentucky Department for Public Health (DPH)

Presenters: Dr. Connie White, DPH deputy commissioner

Emily Messerli, DPH branch manager

Question: Is there an update on a distance apart when students would not be required to wear a mask? Last week Dr. White didn't specify and said other factors would have to be considered.

Answer: Masks must always be worn inside the building and in the classroom setting.

Question: With all students wearing masks at school, should schools still ensure 6 feet of social distance between kids?

Answer: Yes.

Question: Regarding contact tracing, no matter the mitigation, if a student tests positive on Wednesday, is every person who was in the classroom on Monday and Tuesday considered a "contact?"

Answer: Several factors affect that determination, which is why talking to the contact tracers and answer their questions is so important.

Question: If groups of students are 6 feet apart and wearing masks, but in the same class all day with movement (bathroom, lunch, etc.) and one student tests positive, is everyone a contact?

Answer: Everyone is a potential contact but contact tracers will make that determination after questioning about several factors has been completed. This is one reason classroom manifests are important.

Question: Are there certain regional or local metrics that could be met so that students do not have to keep masks on when stationary and more than 6 feet apart?

Answer: Not currently.

Question: Gov. Andy Beshear's mask mandate specified that masks must be worn when "it is difficult to maintain a physical distance of at least 6 feet." Families are asking why KDE is going beyond the governor's order. What is the explanation?

Answer: Classrooms are more confined and the risk of spreading the virus throughout the community is increased.

Question: Which factor will be weighed more heavily in setting guidance, total infections or infection rate?

Answer: Infection rate, because that measure takes into consideration the number of people in a county.

Question: The board attorney disagrees with the guidance of mask wearing without breaks for students and staff in classrooms. What is the reason outside of the increase in cases for the mask mandate when social distancing is in place?

Answer: Another reason is not needed. Masks are the simplest mitigation strategy from the public health perspective and this strategy is being replicated worldwide.

Question: What infection rate must be achieved to revert to the original mask restrictions?

Answer: That is not currently being discussed but could be considered if cases are less than 1,000 per week.

Question: When will districts receive information on self-reporting COVID-19 numbers?

Answer: As soon as possible.

Question: Will DPH continue to issue travel advisories? Has the Centers for Disease Control and Prevention (CDC) recommended against such practice? The states change almost daily making it hard for districts to comply/communicate.

Answer: Travel [advisories](#) continue to be updated on Kentucky's COVID-19 [webpage](#).

Agenda Item: KDE Reopening Guidance Document: Ventilation and COVID-19

Presenters: Robin Kinney, associate commissioner, KDE Office of Finance and Operations
Greg Dunbar, capital construction/design project manager, KDE Office of Finance and Operations

Question: What is the guidance for ventilation in rooms without windows?

Answer: District facilities managers should be consulted. In those instances, districts should contact KDE directly to discuss individual buildings. KDE will also serve as a liaison with other agencies to make specific recommendations.

Question: If we have installed the Bipolar Ionization System through our work with Hershaw Trane, will it allow us to unmask while in the classroom?

Answer: No. Currently there is no substitution for the basic mitigation requirements. The system referenced is a great additional mitigation, but not a substitution for masking.

Question: Will the Bipolar Ionization System not allow us to unmask even when 6 feet apart and stationary?

Answer: The updated guidance document sets the expectation that masks must always be worn except when eating or drinking. There are a few exceptions for music, physical education and providing accommodations.

Question: Does increased airflow accelerate the velocity of the virus spreading within the room?

Answer: No. Proper ventilation and airflow help prevent the virus from concentrating in one area of the room. It also dilutes the virus to a degree.

Agenda Item: KDE Reopening Guidance Document: Truancy

Presenters: Robin Kinney, associate commissioner, KDE Office of Finance and Operations

Matt Ross, policy advisor, KDE Office of Finance and Operations
Jessi Carlton, assistant director, KDE Office of Finance and Operations
Ronda Devine, branch manager, KDE Office of Finance and Operations

There were no questions on this topic.

Agenda Item: General Question and Answer Session

Presenters: KDE leadership team and invited guests

Question: What is the maximum number of people allowed in a staff meeting?

Answer: KDE will check the Healthy at Work [guidelines](#) and provide the answer during the Sept. 15 webcast.

Question: When can districts expect guidance or recommendations on in-person instruction from the Kentucky Board of Education (KBE) and/or the governor for Sept. 28?

Answer: Currently Kentucky is still on track to resume in-person classes on Sept. 28 unless districts decide to delay beyond that. Everyone wants kids back in school if possible and the data is monitored daily. Circumstances can always change if the rate of positive cases increases.

Question: What is KDE's position on districts requiring parents to sign waivers of liability for students to attend school?

Answer: KDE does not support requiring parents to sign waivers to access public education, which is a state constitutional right. A student participating in public education and taking advantage of his/her constitutional right should not be conditioned on waiving liability. It is unknown if waivers would provide any legal protection to districts.

Question: What about a parental acknowledgement of risks form as opposed to a waiver of liability form?

Answer: Assuming the form would serve to notify parents of the risks of COVID-19, the document should include the known risks as well as mention that many risks remain unknown currently. A simple notification would not be problematic assuming it does not ask parents to waive liability in order to participate in public education.

Question: Will there be guidance for in-person physical education classes? This may differ from Kentucky High School Athletic Association (KHSAA) guidance.

Answer: The Society of Health and Physical Education (SHAPE) America has released [guidance](#) on this topic, which is posted with KDE's reopening [guidance](#), under the non-KDE resources section.

Question: What is guidance regarding masks for related service providers and students when participating in speech (and other therapy services) separated by plexiglass?

Answer: KDE will seek guidance on this question and provide the answer during the Sept. 15 webcast.

Question: How are the districts that have opened for in-person classes doing overall? Does it seem like most have made it a manageable task?

Answer: KDE was invited to join a district leadership conversation with Warren County Public Schools to discuss challenges and lessons learned. A lot of work went into preparing for in-

person classes. When asked about challenges with masking, district leaders reported no significant challenges. School staff keep a positive attitude about masking and remind students to mask up when they enter the building. At the time, only one positive case had been identified and it was traced to the student's place of employment. One topic discussed was the stigma around COVID-19, as hateful messages directed at the student and family circulated on social media. District leadership advised that others should have a plan to address stigma and the accompany cruelty if staff or students test positive. A couple of blind spots were identified. As students have minimal opportunities for socialization, school staff should consider assigning seats at lunch based on who students want to socialize with. Also, districts should make sure technology training is available to parents and caregivers who assist students during virtual learning.

Agenda Item: Adjournment

Presenter: Kevin C. Brown, KDE interim commissioner

Discussion:

Brown thanked everyone for the valuable discussion and their hard work on behalf of Kentucky's students.

The next superintendents' webcast is scheduled for Tuesday, Sept. 15, at 2 p.m. ET.

Comm: JGG