

1 EDUCATION AND LABOR CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amended After Comments)

5 702 KAR 5:130. Non-school bus passenger vehicles ~~[Vehicles designed to carry nine~~
6 ~~(9) passengers or less, standards for]~~.

7 RELATES TO: KRS 156.153(3), 156.160, 156.990, 158.110, 158.148, 160.310,
8 160.380, 189.540, 189.550, 49 C.F.R. pt. 40

9 STATUTORY AUTHORITY: KRS 156.070, 156.153, 156.160, 189.540

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 authorizes the Kentucky
11 Board of Education to have the management and control of the common schools and all
12 programs operated in those schools. KRS 156.160 requires the Kentucky Board of
13 Education to promulgate administrative regulations relating to the transportation of
14 children to and from school and those deemed necessary or advisable for the protection
15 of the physical welfare and safety of public school children. KRS 189.540 requires the
16 Kentucky Board of Education to promulgate an administrative regulation to govern the
17 operation of ~~[district-owned]~~ passenger vehicles owned, leased, or privately contracted
18 by the district that transport students ~~[designed to carry nine (9) passengers or less,~~
19 ~~including the driver, and used for approved school activities]~~ under KRS 156.153(3).
20 KRS 156.153(3)(d) requires the Kentucky Board of Education to promulgate
21 administrative regulations establishing the minimum standards and specifications for

non-school bus passenger vehicles; minimum route safety standards and pick-up and drop-off protocols; and minimum qualifications, training, and drug testing requirements for an individual to be authorized to transport any student to and from school using a non-school bus passenger vehicle. This administrative regulation establishes the requirements relative to the transportation of students~~[pupils]~~ by local school districts in non-school bus passenger vehicles~~[designed to carry nine (9) passengers or less and which are not classified as school buses]~~.

Section 1. Definition. "Non-school bus passenger vehicle" or "vehicle"~~[Vehicle]~~ means a vehicle owned, leased, or contracted by a school district~~[board]~~ that is designed and built by the manufacturer for passenger transportation of nine (9) or fewer passengers, including the driver, and used for transporting students~~[or contracted to the board which is significantly used to transport pupils]~~ to and from school and approved school activities under an alternative transportation plan approved by the Kentucky Department of Education~~[which is designed by the manufacturer to carry fewer than ten (10) passengers]~~.

Section 2. Alternative transportation plan. (1) A district shall submit an alternative transportation plan to the Kentucky Department of Education for approval each school year prior to transporting any student in a non-school bus passenger vehicle.

(2) The alternative transportation plan shall include:

(a) The number of vehicles being used to transport students; and

(b) Information regarding why a school bus is not being used.

~~[A vehicle may be used for the transportation of pupils:~~

~~(a) From areas not accessible by a regular school bus to the nearest road available for the safe transfer of pupils to a regular school bus or vice versa;~~

~~(b) For emergency transportation of students;~~

~~(c) For approved school activities; or~~

~~(d) For qualified special needs pupils.~~

~~(2) A vehicle driver shall be a school district employee or a person contracted by the district.]~~

Section 3. Vehicle Requirements. (1) A vehicle shall not be used to carry more students~~[pupils]~~ than the manufacturer's designed passenger capacity for that particular vehicle.

~~(2)[Section 4.]~~ A vehicle shall have occupant restraint systems equal in number to the manufacturer's designed passenger capacity and installed in accordance with the ~~[original equipment]~~ manufacturer's specifications.

(3) A vehicle shall display a sign in clear view in the rear of the vehicle stating:

(a) "This vehicle is being used to transport school children"; and

(b) "This vehicle stops at railroad crossings".

(4) A district shall remove all district identification lettering from a non-school bus passenger vehicle before transferring title to another party other than a Kentucky school district. A contract issued by the local board for a non-school bus passenger vehicle shall contain a clause requiring the contractor to remove all district identification lettering when the vehicle is no longer under contract to the local board of education.

(5) The vehicle shall be equipped with:

(a) a fire extinguisher with a rating of A, B, and C;

1 (b) a first aid kit;

2 (c) a seatbelt cutter; and

3 (d) a body fluid clean up kit.

4 Section 4. Route Safety Standards and Pick-up and Drop-off Protocols.

5 (1) The driver shall stop in a location that does not obstruct traffic while picking up or
6 dropping off any student.

7 (2) Pursuant to KRS 156.153(3)(d)2, the driver shall not deposit a student at a location
8 that would require the student to cross a road or intersection to reach the student's
9 destination.

10 (3) The driver shall not use a personal communication device while operating a vehicle
11 with students on board except during an emergency.

12 Section 5. Driver Qualifications. (1) A local board of education operating under an
13 approved alternative transportation plan shall adopt a policy that establishes the
14 qualifications for drivers regarding:

15 (a) Drug test results;

16 (b) Driving history record;

17 (c) Convictions for a violation under KRS Chapter 189 for which penalty points are
18 assessed; and

19 (d) Any citation or arrest for a violation of any provision of KRS Chapter 189A.

20 (2) A person shall not operate a non-school bus passenger vehicle if convicted within the
21 past five (5) years of driving under the influence (DUI) or driving while intoxicated (DWI).

(3) A driver taking medication either by prescription or without prescription shall not drive if that medication affects the driver's ability to safely drive the vehicle or perform other driver responsibilities.

(4) A local board of education shall require a medical examination of each driver at least once every twenty-four (24) months. The medical examination shall be reported on the form Medical Examination of School Employees, KDESHS001, incorporated by reference in 702 KAR 1:160, Section 6(1)(a), or an electronic medical record that includes all of the data equivalent to that on the Medial Examination of School Employees form. [Liability or indemnity insurance shall be purchased for each vehicle.

The coverage limits shall be at least these amounts:

Bodily injury/Property Damage	\$1,000,000 per occurrence combined or \$250,000/\$1,000,000 split
Uninsured/Underinsured Motorist Coverage	\$500,000
"No-Fault" Coverage	\$20,000 per passenger]

Section 6. Driver Drug Testing Requirements. (1) Pursuant to KRS 156.153(3)(d)3 and KRS 160.380(6)(e)2, all drivers transporting any student in a non-school bus passenger vehicle shall submit to drug testing consistent with the requirements of 49 C.F.R. pt. 40.

(2) A driver shall be subject to the following:

(a) Controlled substance testing prior to initially transporting students;

(b) Post-accident testing for controlled substances and alcohol;

(c) Random testing for controlled substances and alcohol; and

(d) Reasonable suspicion testing for controlled substances and alcohol.

1 (3) A driver having a confirmed positive test for a controlled substance shall not be
2 permitted to transport any student in a non-school bus passenger vehicle for five (5)
3 years from the date of the positive test. A driver subject to this subsection shall undergo
4 controlled substance testing prior to operating a non-school bus passenger vehicle
5 again and shall undergo a minimum of six (6) unannounced follow-up tests in the first
6 twelve (12) months.

7 (4) A driver who tests at 0.02 percent or higher on the confirmation alcohol test
8 immediately before, during, or immediately following operating a non-school bus
9 passenger vehicle shall be relieved of these duties immediately and shall not be eligible
10 to operate a non-school bus passenger vehicle for five (5) years. A driver subject to this
11 subsection shall undergo controlled substance and alcohol use testing prior to operating
12 a non-school bus passenger vehicle again and shall undergo a minimum of six (6)
13 unannounced follow-up tests in the first twelve (12) months~~[Before a vehicle is initially~~
14 ~~used to transport pupils, a safety inspection shall be made on the vehicle by an~~
15 ~~approved school bus inspector to certify the vehicle is in safe operating condition. If the~~
16 ~~vehicle is found to be in unsafe operating condition, it shall not be used to transport~~
17 ~~pupils until necessary repairs are made].~~

18 Section 7. Driver Training. (1) A driver shall successfully complete an initial three (3)
19 hour training curriculum developed by the Kentucky Department of Education and
20 delivered by a school bus driver trainer certified in accordance with 702 KAR 5:080,
21 Section 4(2).

22 (2) A driver shall successfully complete a district specific minimum three (3) hour
23 training each school year delivered by a school bus driver trainer certified in accordance

1 with 702 KAR 5:080, Section 4(2). The minimum three (3) hour training shall include
2 information on the local board's transportation services policy and code of acceptable
3 behavior and discipline.

4 (3) A driver shall successfully complete basic first aid and cardiopulmonary resuscitation
5 training in accordance with 702 KAR 5:080, Section 5. A driver shall be subject to this
6 training every two (2) years.

7 (4) A district shall not permit an individual to transport students until the individual has
8 successfully completed the training in this section ~~[A vehicle shall be inspected at least~~
9 ~~once each month that the vehicle is used to transport pupils, utilizing the same criteria~~
10 ~~for inspection as for school buses on the "Preventive Management Inspection" Form as~~
11 ~~found in the "Pupil Transportation Management Manual, April 1998"].~~

12 Section 8. Insurance. (1) A local board of education shall obtain indemnity or liability
13 insurance against negligence with a coverage limit of at least 1,500,000.00 dollars per
14 occurrence for all non-school bus passenger vehicles owned or leased by the district.

15 (2) For vehicles contracted by the district, the local board shall require the contractor to
16 carry indemnity or liability insurance against negligence with a coverage limit of at least
17 1,500,000.00 dollars per occurrence. ~~[If being used to transport pupils, a vehicle shall~~
18 ~~display a sign in clear view in the rear of the vehicle stating: "This vehicle is being used~~
19 ~~to transport school children."]~~

20 Section 9. Vehicle Inspections. (1) The driver shall conduct and document a pre-trip
21 inspection using the Non-school Bus Passenger Vehicle Pre-trip Inspection form prior to
22 each time the vehicle is used to transport any student. If the driver determines that the
23 vehicle is not safe to drive, the vehicle shall not be used to transport students until it is

inspected and approved by a Kentucky Department of Education approved school bus or vehicle inspector, or a certified Automotive Service Excellence master technician.

(2) The safety inspection required by KRS 156.153(3)(b) shall be performed by a Kentucky Department of Education approved school bus or vehicle inspector, or a certified Automotive Service Excellence master technician. The Preventative Maintenance Inspection Report For Non-school Bus Passenger Vehicle form shall be used to perform the safety inspection. If the vehicle is found to be in an unsafe operating condition, it shall not be used to transport students until necessary repairs are made.

Section 10. Emergency transportation. (1) If a school district transports a student due to an emergency as determined by the superintendent or his or her designee, Section 3(5), Section 7(2) and (4), and Section 9(1) of this administrative regulation shall not apply. The school district shall attempt to obtain verbal consent of a parent or guardian prior to emergency transportation.

~~[Incorporation by Reference.(1) "Pupil Transportation Management Manual", April 1998, is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of District Support Services, Department of Education, 15th Floor, Capitol Plaza Tower, 500 Mero Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m].~~

Section 11[40]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Non-school Bus Passenger Vehicle Pre-trip Inspection", April 2025; and

1 (b) "Preventative Maintenance Inspection Report For Non-school Bus Passenger
2 Vehicle", April 2025.

3 (2) This material may be inspected copied, or obtained, subject to applicable copyright
4 law, at the Kentucky Department of Education, 300 Sower Blvd., Frankfort, Kentucky,
5 40601, Monday through Friday, 8:00 a.m. – 4:30 p.m. This material may also be viewed
6 at: <https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

(Date)

Dr. Robbie Fletcher
Commissioner of Education

(Date)

Sharon Porter Robinson, Chair
Kentucky Board of Education

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

702 KAR 5:130

Contact Person: Todd G. Allen

Phone: 502-564-4474

Email: todd.allen@education.ky.gov

Subject Headings: Education; Education: Elementary; Education: Secondary

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements relative to the transportation of students by local school districts in non-school bus passenger vehicles.

(b) The necessity of this administrative regulation: KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and those deemed necessary or advisable for the protection of the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky Board of Education to promulgate an administrative regulation to govern the operation of passenger vehicles owned, leased, or privately contracted by the district that transport students under KRS 156.153(3). KRS 156.153(3)(d) requires the Kentucky Board of Education to promulgate administrative regulations establishing the minimum standards and specifications for non-school bus passenger vehicles; minimum route safety standards and pick-up and drop-off protocols; and minimum qualifications, training, and drug testing requirements for an individual to be authorized to transport any student to and from school using a non-school bus passenger vehicle. This administrative regulation is necessary to establish the requirements relative to the transportation of students by local school districts in non-school bus passenger vehicles.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the requirements relative to the transportation of students by local school districts in non-school bus passenger vehicles. The regulation establishes the requirements for an alternative transportation plan; vehicle requirements; route safety standards and pick-up and drop-off protocols; driver qualifications; driver drug testing and training requirements; insurance requirements; requirements for vehicle inspections; and emergency transportation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements relative to the transportation of students by local school districts in non-school bus passenger vehicles as required by KRS 156.160, 189.540, and 156.153.

(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: The regulation amendment updates the definition for non-school bus passenger vehicle; establishes the requirements for an alternative transportation plan; deletes language regarding the type of transportation the non-school bus passenger vehicle may be used for; updates vehicle requirements; inserts route safety standards and pick-up and drop-off protocols, driver

qualifications, driver drug testing requirements, and driver training requirements; updates the requirements for insurance and vehicle inspections; and adds language regarding emergency transportation.

(b) The necessity of the amendment to this administrative regulation: KRS 156.153 was amended in 2024 to require the Kentucky Board of Education to promulgate administrative regulations establishing the minimum standards and specifications for non-school bus passenger vehicles; minimum route safety standards and pick-up and drop-off protocols; and minimum qualifications, training, and drug testing requirements for an individual to be authorized to transport any student to and from school using a non-school bus passenger vehicle. KRS 189.540 was amended in 2025 to require the Kentucky Board of Education to promulgate administrative regulations to govern the operation of passenger vehicles owned, leased, or privately contracted by the district that transport students under KRS 156.153(3). This amendment is necessary to comply with these statutory requirements.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation amendment establishes the requirements for an alternative transportation plan, route safety standards and pick-up and drop-off protocols, driver qualifications, driver drug testing requirements, and driver training requirements. The regulation amendment also updates the requirements for vehicles, insurance, and vehicle inspections and adds language regarding emergency transportation.

(d) How the amendment will assist in the effective administration of the statutes: This regulation amendment establishes the requirements relative to the transportation of students by local school districts in non-school bus passenger vehicles as required by KRS 156.160, 189.540, and 156.153.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes. House Bill 447 (R.S. 2024) and House Bill 430 (R.S. 2025).

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local school districts and the Kentucky Department of Education.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment: Local school districts will have to submit an alternative transportation plan to the Kentucky Department of Education for approval each school year; add additional signage to vehicles and remove district identification lettering when title transfers to a party other than a Kentucky school district or when a vehicle is no longer under contract; equip vehicles with a fire extinguisher, first aid kit, seatbelt cutter, and a body fluid clean up kit; adopt a policy regarding the qualifications for drivers; require a medical examination of each driver at least once every twenty-four (24) months; require drivers to undergo drug testing; provide training to drivers; obtain insurance; and conduct vehicle inspections.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The cost to the Kentucky Department of Education is expected to be minimal. The cost to local school districts is unknown and dependent upon the extent a district chooses to utilize non-school bus passenger vehicles to transport students.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): School districts will be able to transport students in non-school bus passenger vehicles.

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

(a) Initially: There will be minimal cost to the Kentucky Department of Education.

(b) On a continuing basis: The ongoing cost to the Kentucky Department of Education will be minimal.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: General Funds.

(8) 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: None.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with this administrative regulation.

(10) TIERING: Is tiering applied? Tiering is not applied. The regulation applies uniformly.

FISCAL IMPACT STATEMENT

702 KAR 5:130

Contact Person: Todd G. Allen

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(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 156.070, 156.153, 156.160, and 189.540.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: KRS 156.070 authorizes the Kentucky Board of Education to have the management and control of the common schools and all programs operated in those schools. KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and those deemed necessary or advisable for the protection of the physical welfare and safety of public school children. See KRS 156.160(1)(h) and (k). KRS 189.540(1)(a) requires the Kentucky Board of Education to promulgate an administrative regulation to govern the operation of passenger vehicles owned, leased, or privately contracted by the district that transport students under KRS 156.153(3). KRS 156.153(3)(d) requires the Kentucky Board of Education to promulgate administrative regulations establishing the minimum standards and specifications for non-school bus passenger vehicles; minimum route safety standards and pick-up and drop-off protocols; and minimum qualifications, training, and drug testing requirements for an individual to be authorized to transport any student to and from school using a non-school bus passenger vehicle.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Education and Kentucky Department of Education.

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

1. Expenditures:

For the first year: Any expenditures are expected to be minimal.

For subsequent years: Any expenditures are expected to be minimal.

2. Revenues:

For the first year: This regulation is not expected to generate revenue.

For subsequent years: This regulation is not expected to generate revenue.

3. Cost Savings:

For the first year: No cost savings are anticipated.

For subsequent years: No cost savings are anticipated.

(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 cost to local school districts is unknown and dependent upon the extent a district chooses to utilize non-school bus passenger vehicles to transport students. Local school districts will receive state transportation funding for transporting students to and from school.

For subsequent years: The cost to local school districts in subsequent years is unknown and dependent upon the extent a district chooses to utilize non-school bus passenger vehicles to transport students. Local school districts will receive state transportation funding for transporting students to and from school.

2. Revenues:

For the first year: This regulation is not expected to generate revenue.

For subsequent years: This regulation is not expected to generate revenue.

3. Cost Savings:

For the first year: No cost savings are anticipated.

For subsequent years: No cost savings are anticipated.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None.

(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: For the Kentucky Department of Education, any expenditures are expected to be minimal. The regulation is not expected to generate revenue and no cost savings are anticipated.

For local school districts, the cost is unknown and dependent upon the extent a district chooses to utilize non-school bus passenger vehicles to transport students. Local school districts will receive state transportation funding for transporting students to and from school. The regulation is not expected to generate revenue and no cost savings are anticipated.

(b) Methodology and resources used to reach this conclusion: For the Kentucky Department of Education and local school districts, the estimates herein are based on prior program operations.

(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(14): The administrative regulation is not expected to have a major economic impact on the Kentucky Department of Education or local school districts. Local school districts may choose whether to utilize non-school bus passenger vehicles to transport students.

(b) The methodology and resources used to reach this conclusion: For the Kentucky Department of Education and local school districts, the estimates herein are based on prior program operations and the fact that districts are not required to utilize non-school bus passenger vehicles to transport students.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The “Non-school Bus Passenger Vehicle Pre-trip Inspection” is the 1-page form that drivers must complete each time the vehicle is used to transport any student. KRS 156.070 authorizes the Kentucky Board of Education to have the management and control of the common schools and all programs operated in those schools. KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and those deemed necessary or advisable for the protection of the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky Board of Education to promulgate an administrative regulation to govern the operation of passenger vehicles owned, leased, or privately contracted by the district that transport students under KRS 156.153(3). KRS 156.153(3)(d) requires the Kentucky Board of Education to promulgate administrative regulations establishing the minimum standards and specifications for non-school bus passenger vehicles.

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

The “Preventative Maintenance Inspection Report For Non-school Bus Passenger Vehicle” is the 1-page form that is completed by a Kentucky Department of Education approved school bus or vehicle inspector, or an Automotive Service Excellence master technician for a non-school bus passenger vehicle.

The form will replace in its entirety the previously incorporated “Preventative Management Inspection” form found in the “Pupil Transportation Management Manual” dated April 1998.

STATEMENT OF CONSIDERATION
Relating to 702 KAR 5:130

Kentucky Board of Education, Department of Education
(Amended After Comments)

I. The public hearing on 702 KAR 5:130, scheduled for August 27, 2025, at 10:00 a.m. at the Kentucky Department of Education, 300 Sower Boulevard, Frankfort, Kentucky was canceled pursuant to KRS 13A.270(7)(a); however, written comments were received during the public comment period.

II. The following people submitted written comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Justin Kaiser, Superintendent	Beechwood Independent Schools
Brian Robinson, Superintendent	Fort Thomas Independent Schools
Joe Buerkley, Superintendent	Pendleton County Schools
Ashley Munson Government Relations Manager	HopSkipDrive
Morgan Jude Senior Director of Compliance Regulation, and Policy	EverDriven Technologies, LLC

III. The following people from the promulgating administrative body responded to the written comments:

Name and Title

Matthew T. Ross, Associate Commissioner, Office of Finance and Operations
Lindsey Swartz, Policy Advisor, Office of Finance and Operations
Chay Ritter, Director, Division of District Support, Office of Finance and Operations
Roger Banks, Manager, Pupil Transportation Branch, Division of District Support, Office of Finance and Operations

IV. Summary of Comments and Responses

(1) Subject Matter: Scope of Minimum Standards

(a) Comments: Justin Kaiser, Brian Robinson, and Joe Buerkley suggest that the proposed amendments exceed the “minimum standard” in statute, and each provide their own version of what “minimum standard[s]” should be included in the regulation. The first states that the proposed amendments impose bus-level requirements on passenger vans and limit student opportunities in extracurricular activities. The commenter also notes that the regulation should not apply to extracurricular travel and suggests that it creates a new regulatory burden. He further notes that the amendments will result in increased costs and reduced efficiency. The second commenter recommends that the minimum requirements change to school districts being required to maintain an approved list of drivers who: pass all relevant background checks required of all employees who work

with students; submit driver's license for review of any traffic infractions; agree to drug testing following an accident or based on reasonable suspicion; attest that they have no medical condition or currently taking medication that would impair the ability to operate a vehicle; and complete district training consistent with all employees plus expectations for driving a school van as determined relevant by the school district. The third commenter notes that passenger vans will be treated with the same scrutiny as school buses. The commenter states that the amendments will impact access to extracurricular activities by making non-school bus passenger vehicles more difficult to use. The commenter also notes that an employee with a Class B CDL with passenger and school bus endorsements would be prohibited from driving a school van.

(b) Response: The minimum standards proposed by the commenters do not meet the statutory requirements set forth in KRS 160.380(6)(e). Therefore, adopting the minimum standards recommended by the commenters is not possible. KRS 160.380(6)(e) requires: "The superintendent of a school district operating under an alternative transportation plan approved by the Kentucky Department of Education in accordance with KRS 156.153(3) shall require the driver of any non-school bus passenger vehicle authorized to transport students to and from school pursuant to the alternative transportation plan who does not have a valid commercial driver's license issued in accordance with KRS Chapter 281A with an "S" endorsement to: 1. Submit to a national and state criminal background check by the Department of Kentucky State Police and the Federal Bureau of Investigation at least once every three (3) years and a criminal records check conducted in accordance with KRS 27A.090 in all other years; 2. Submit to drug testing consistent with the requirements of 49 C.F.R. pt. 40; 3. Provide a biannual driving history record check performed by the Transportation Cabinet; 4. Provide an annual clear CA/N check; 5. Immediately notify the superintendent of any conviction for a violation under KRS Chapter 189 for which penalty points are assessed; and 6. Immediately notify the superintendent of any citation or arrest for a violation of any provision of KRS Chapter 189A. The superintendent shall inform the Kentucky Department of Education of the notification."

Further, KRS 156.153(3)(d) provides language regarding what is required in regulatory minimum standards. "The Kentucky Board of Education shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish: 1. Minimum standards and specifications for non-school bus passenger vehicles used under this subsection, including a standard for minimum insurance coverage; 2. Minimum route safety standards and pick-up and drop-off protocols for pupil transportation using non-school bus passenger vehicles that prohibit non-school bus passenger vehicles from depositing a student at a location that would require the student to cross a road or intersection to reach the student's destination; and 3. Minimum qualifications, training, and drug testing requirements for an individual to be authorized to transport any student to and from school using a non-school bus passenger vehicle. The drug testing requirements shall require an individual to submit to drug testing consistent with the requirements of 49 C.F.R. pt. 40 to be authorized to transport students to and from school using a non-school bus passenger vehicle."

As for application of the standards set forth in the regulation to transportation for extracurricular activities, KRS 156.153(3)(a) states: "Districts may also use vehicles owned, leased, or contracted by the district that were designed and built by the manufacturer for passenger transportation of nine (9) or fewer passengers, including the driver, for transporting students to and from school and approved school activities under an alternative transportation plan approved by the Kentucky Department of Education." The statute does not specifically suggest any lessened safety standards for transportation of students for extracurricular activities (i.e. school sponsored events) versus transportation to and from school. Likewise, the agency does not believe it is good policy to create safety standards for extracurricular activity transportation that are less than those required for transportation to and from school. The students depending on school districts for transportation to and from extracurricular activities are entitled to the same safety standards as those students depending on school districts for transportation to and from school.

Nevertheless, in reviewing these comments the agency considered school district transportation in limited emergency situations and how the minimum transportation standards may impact a school district's ability to respond to the emergency at hand. The agency will amend the regulation to address transportation standards that apply in limited emergency situations.

(2) Subject Matter: Driver Training, Vehicle Inspections, Signage, Fire Extinguishers, and Physical Exams.

(a) Comment: Ashley Munson and Morgan Jude provided comments regarding requirements for contractors operating vehicles to transport students. Munson recommends language to permit a contractor to implement their own driver training program and recommends removing the requirement for ongoing training. Jude comments that the training be offered online. Munson mentions removing the requirement to use the "Non-school Bus Passenger Vehicle Pre-trip Inspection form." Jude recommends vehicle inspections be conducted only twice a year or every ninety days. Munson also requests that the requirements regarding signage be removed from the regulation, as well as the requirement that a fire extinguisher be on board. Munson further recommends drivers only be required to complete a one-time pre-service medical exam.

(b) Response: The proposed regulation amendment does not prohibit a contractor from implementing their own driver training program above and beyond the driver training requirements set forth in the regulation. The agency disagrees that a contractor should not be subject to district specific training. The proposed amendment ensures that both district employees and contractors receive training tailored to the specific needs of the school district. For example, a school district transporting in an urban area may have different needs than a school district transporting in a rural area. The proposed regulation amendment does not prohibit the Kentucky Department of Education developed driver training and the district specific driver training from being offered virtually.

KRS 156.153(3)(b) provides the inspection schedule of non-school bus vehicles. Therefore, the inspection schedule may not be amended by the agency. KRS

156.153(3)(b) states: “Non-school bus passenger vehicles used under this subsection shall be clearly marked as transporting students and undergo a safety inspection no less than once every thirty (30) days. However, non-school bus passenger vehicles that are not for daily use shall not be required to be inspected more frequently than once every three (3) months.” The proposed regulation amendment aligns with this statutory requirement. The agency declines to remove the proposed requirement to use the “Non-school Bus Passenger Vehicle Pre-trip Inspection form.” This form tells drivers what to inspect on the vehicle to determine whether it is safe to drive. Districts may complete this form electronically.

The agency declines to change the proposed signage requirements. KRS 156.153 requires that “non-school bus passenger vehicles used under this subsection be clearly marked as transporting students[.]” Therefore, the agency may not promulgate a regulation eliminating this signage requirement. The proposed regulatory amendment also adds a requirement for signage with the following: “This vehicle stops at railroad crossings.” KRS 189.550 requires operators of motor vehicles used for transporting children to stop at railroad crossings. Since non-school bus passenger vehicles do not typically stop at railroad crossings, this requirement is designed to provide notice to other vehicles to expect railroad crossing stops and avoid rearend collisions.

KDE declines to change the proposed requirement for non-school bus passenger vehicles to be equipped with fire extinguishers. This requirement promotes student and driver safety in the event of a fire.

KDE declines to change the proposed requirement for driver medical exams. The requirement for a medical exam at least once every twenty-four months ensures that drivers remain medically fit to transport students in non-school bus passenger vehicles.

(3) Subject Matter: Insurance Requirements

(a) Comment: Morgan Jude requests that the regulation be amended to address insurance coverage requirements for subcontractors.

(b) Response: KDE declines to add clarifying language regarding insurance coverage for subcontractors. The proposed regulation amendment addresses insurance coverage for contractors. A subcontractor would be subject to the same insurance coverage requirement as a contractor.

Summary of Statement of Consideration and Action Taken by Promulgating Administrative Body

The public hearing on this administrative regulation was canceled; however, five written comments were received. The agency responded to the comments and will amend the administrative regulation to provide minimum standards applicable to non-school bus passenger vehicle transportation in cases of emergency.