

FILED WITH LRC  
TIME: 11am  
FEB 14 2014  
Donna Little  
REGULATIONS COMPILER

1 **Education and Workforce Development Cabinet**

2 **Kentucky Board of Education**

3 **Department of Education**

4 **(Amendment)**

5 **702 KAR 3:300. Approval for school district lease and retirement incentive annuity**  
6 **agreements.**

7 RELATES TO: KRS 65.944, 65.946, 156.070

8 STATUTORY AUTHORITY: KRS 65.944(1)(c), 156.070, 156.160

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 and 156.070 give the Kentucky  
10 Board of Education the authority to promulgate administrative regulations deemed necessary for  
11 the management of the school districts. KRS 65.944(1) (b) [~~(e)~~] requires the Kentucky Board of  
12 Education to promulgate an administrative regulation to implement requirements for lease  
13 approval by the Commissioner of Education. This administrative regulation establishes  
14 requirements for approval of school district lease and retirement incentive annuities.

15 Section 1. Administrative Guidelines. (1) To request approval of a lease or retirement incentive  
16 annuity agreement in excess of \$100,000 from the Commissioner of Education pursuant to KRS  
17 65.944(1)(c), the following shall be submitted to the Department of Education, Office of  
18 Administration and Support [~~Office of District Support Services~~], prior to finalization of the lease  
19 or retirement incentive annuity agreement:

20 (a) The terms of the lease or retirement incentive annuity, including the lease or retirement  
21 incentive annuity price;

- 1 (b) The number of optional renewal periods;
- 2 (c) The interest rate;
- 3 (d) The date of issue;
- 4 (e) The purpose of the lease or retirement incentive annuity; and
- 5 (f) The name of any trustee of paying agent.

6 (2) During the evaluation process, the Department of Education, Office of Administration and  
7 Support [~~Office of District Support Services~~], may request additional documentation to properly  
8 evaluate the proposed lease or retirement incentive annuity agreement.

9 Section 2. Technology Leases. Pursuant to KRS 65.944 (1) (b) and 65.946, each school district  
10 shall submit to the Department of Education, Office of Administration and Support [~~Office of~~  
11 ~~District Support Services~~], each technology lease including evidence of the lease being limited to  
12 the five (5) year [~~three (3) year~~] useful life of the equipment and approval of the district's  
13 technology plan.

14 Section 3. Final Approval and Reconsideration. (1) Final approval of a proposed school district  
15 lease or retirement incentive annuity agreement with a lease or retirement incentive annuity price  
16 of \$100,000 or more shall be granted by the Commissioner of Education before the agreement  
17 takes effect.

18 (2) Upon receiving approval from the Commissioner of Education, a school district may enter into  
19 the lease or retirement incentive annuity at any time within the current fiscal year.

20 (3)(a) The Commissioner of Education shall send written notification to the school district if the  
21 agreement is not approved.

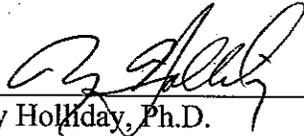
22 (b) The notice shall contain the reasons the agreement was not approved.

1 (c) A school district may request reconsideration by the Commissioner of Education if alterations  
2 are made to the proposed lease or retirement incentive annuity which alleviate the concerns  
3 expressed by the Commissioner of Education.

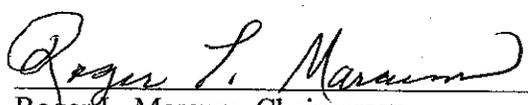
4 Section 4. Superintendent Annuity. This administrative regulation shall not apply to an annuity  
5 provision within the negotiated employment contract of a school district superintendent.

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).

2-14-14  
(Date)

  
Terry Holliday, Ph.D.  
Commissioner of Education

2-14-14  
(Date)

  
Roger L. Marcum, Chairperson  
Kentucky Board of Education

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this proposed administrative regulation shall be held on March 26, 2014, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five 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 until March 31, 2014. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

**CONTACT PERSON:** Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 702 KAR 3:300

Agency Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for approval of school district leases and retirement incentive annuities.

(b) The necessity of this administrative regulation: KRS 65.944(1)(b) requires the Kentucky Board of Education to promulgate an administrative regulation to implement requirements for lease approval by the Commissioner of Education.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation establishes the procedures for approving leases and retirement annuities.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets out the required procedures for local school districts to acquire the agency's approval of leases and retirement annuities that exceed one hundred thousand dollars (\$100,000.00).

(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: Updates the administrative regulation to allow a school district to enter a technology lease for a period of five years.

(b) The necessity of the amendment to this administrative regulation: Updates were necessary to allow school districts to take advantage of better pricing if better pricing is offered with a longer technology lease period.

(c) How the amendment conforms to the content of the authorizing statute: The amendment conforms to KRS 156.160 and 156.070 which give the Kentucky Board of Education the authority to promulgate administrative regulations deemed necessary for the efficient financial management of the school districts.

(d) How the amendment will assist in the effective administration of the statutes: The amendment is updated to conform to requirements in KRS 65.944(1)(b) for lease approval by the Commissioner of Education.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public school districts in Kentucky

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The administrative regulation will impact any school districts that enter into a technology lease.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: School districts must submit details of any lease in excess of \$100,000 to the agency for review and approval.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs to current operations

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): School districts will be able to take advantage of better pricing that may be offered with a longer technology lease term.

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

(a) Initially: No costs

(b) On a continuing basis: No costs

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General fund

(7) 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: No increase will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) No, the length of the terms of the lease are set at the discretion of the school district.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 702 KAR 3:300

Contact Person: Kevin C. Brown

Phone number: 564-4474

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All public school districts

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 65.944(1)(b), 156.070, 156.160

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? No additional cost

(d) How much will it cost to administer this program for subsequent years? No additional cost

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: