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# Superintendents Webcast

Jan. 11, 2022



Kentucky Department of  
**EDUCATION**

# Agenda

## Welcome

Jason E. Glass, Ed.D., Commissioner of Education and Chief Learner

## Disaster Recovery Superintendent Huddle

Jason E. Glass, Ed.D., Commissioner of Education and Chief Learner

Toni Konz Tatman, Chief Communications Officer, Office of the Commissioner

Robin Kinney, KDE Associate Commissioner, Office of Finance and Operations

Lindsay Booth and Maria Rowan, U.S. Department of Education Disaster Recovery Unit

## COVID-19 Updates

Jason E. Glass, Ed.D., Commissioner of Education and Chief Learner

Dr. Connie White, Deputy Commissioner, Kentucky Department for Public Health

## Legislative Updates

Jason E. Glass, Ed.D., Commissioner of Education and Chief Learner

## ESSER Integrated Data Reporting

Robin Kinney, KDE Associate Commissioner, Office of Finance and Operations

## OSHA and ETS Updates

Todd Allen, KDE General Counsel, Office of Legal Services

## Diversity, Equity and Inclusion Updates

Thomas Woods-Tucker, Ph.D., Deputy Commissioner and Chief Equity Officer

Damien Sweeney, Ed.D., Director of Diversity, Equity and Inclusion

## Communications Updates

Toni Konz Tatman, KDE Chief Communications Officer, Office of the Commissioner

[\(Submit Questions via Google Form\)](#)

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# Disaster Recovery Superintendent Huddle

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# Recognizing the Helpers in Taylor County

We've heard about many great people who went above and beyond to help others after December's tornadoes. KDE will be highlighting the **many people in our districts** we've heard about who have done great things to help their neighbors.

- **FFA Leaders Lindsey Wayne and Ryan Williams:** FFA students collected donations in class by creating fundraisers (bake sale, etc.), went out and cleaned up fellow student and staff members' homes after the first tornado and then went out again on Dec. 21 after the second tornado to help clean up more farms that were hit. They also have been collecting agriculture-related donations to help the families.
- **Family Resource Directors Ann Mattingly and Lesley Newton:** They quickly and efficiently determined our students' needs right after the tornado and met most of their needs – clothing, temporary housing, etc. They collected enough donations (monetary and gift) to provide Christmas gifts for every student who was affected by the tornado.
- **Taylor County Maintenance Department:** They helped clean up homes and land that was destroyed by the tornado.
- **Beta Club Sponsor Mandy Cox:** She took students to 3 Trees Church to help organize and sort donations.

Do you have an example you would like to share with us? Email: [toni.tatman@education.ky.gov](mailto:toni.tatman@education.ky.gov)

# Project School Emergency Response to Violence (SERV)

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AN INTRODUCTION

# Disaster Recovery Unit

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The DRU provides leadership, financial and technical resources, and support to assist education communities with recovering after a natural disaster.

**Maria Rowan**, Natural Disaster SERV Program Lead

(202) 453-7117

[Maria.Rowan@ED.gov](mailto:Maria.Rowan@ED.gov)

[DisasterRecoveryUnit@ED.gov](mailto:DisasterRecoveryUnit@ED.gov)

# Project SERV

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## Purpose:

- To **restore the learning environment** after it has been disrupted due to a violent or traumatic crisis, such as a natural disaster.

## Background:

- First weather-related natural disaster related SERV grant was administered in response to Hurricane Katrina

## Use of Funds:

- In general, Project SERV funds may be used for costs that are necessary and reasonable to restoring the learning environment. This may include activities that help an impacted local educational agency (LEA) or Institution of Higher Education (IHE) manage the practical problems caused by the traumatic event; help the LEA/IHE and schools provide a sense of safety and security; or help individuals directly affected by the event to recover.

# Allowable Use of Funds

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- Targeted mental health assessments, referrals, and services related to the traumatic event with the goal of restoring victims/survivors to their pre-incident levels of functioning
- Overtime for teachers, counselors, and other staff
- Substitute teachers and other staff as necessary
- Technical assistance on developing an appropriate response to crisis
- Transportation and other costs to operate school at an alternative site, e.g., leasing of space to substitute for damaged buildings

# Unallowable Use of Funds

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- Permanent security measures
- Hospitalization and medical treatment for physical injuries
- Payments of fines, settlements, or legal fees
- Construction
- Any activity for which other resources are available (supplement not supplant)
- Services normally provided by the LEA
- Emergency management planning
- Mental health services for persons other than teachers, students, faculty, or members of the immediate family of a student, faculty member, or teacher.

# Eligibility

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For a LEA or IHE to qualify for funding, the entity must be able to

1. Demonstrate that the natural disaster had a traumatic effect on the learning environment, including how the event has disrupted teaching and learning;
2. Explain how proposed activities/services will help restore the learning environment; and
3. Demonstrate that the needed activities/services cannot be adequately provided with existing resources in a comprehensive and timely manner.

*Generally, the Department awards Project SERV grants to grantees that experience a natural disaster that prompts a Federal Major Disaster Declaration.*

# Application

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1. Applicant information
2. Description of the school district
3. Description of the event
4. Description of the impact the event has had on the learning environment.
  - Any data which reflects this impact such as increased absences, increased visits to the school counselor etc.
5. Explanation of proposed activities designed to restore and preserve the learning environment
6. Budget and Budget Narrative
  - Reimbursements
  - Prospective expenses

# Considerations

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- Short term
  - Average award 12 months
- Limited funding available
  - Funding cannot be used for services covered by other resources (FEMA funding, COVID recovery funding, insurance, etc.)
- Hiring challenges
- Should cover the most essential needs
- Must be connected to the traumatic event
- ED involvement with application process
- When funding approval is nearly final, additional application information required
- Final report requirement

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# COVID-19 Updates

Jason E. Glass, Ed.D., Commissioner of Education and Chief Learner  
Dr. Connie White, Deputy Commissioner, Kentucky Department for Public Health

# NTI Days and COVID-19

- We have had some questions about where teachers need to work from during nontraditional instruction (NTI) days due to the rapid rise of the omicron variant of COVID. Senate Bill 1, passed during last year's special session, makes that question a little more complex.
  - In short, it depends on whether the NTI day is due to COVID.
- Section 7 of SB 1 says:
  - *“When a school district utilizes a student attendance day under an approved nontraditional instruction plan due to COVID-19, or utilizes remote instruction under Section 5 of this Act, all certified staff and any classified staff designated by the district shall be required to perform work duties on-site during the student attendance day, except for employees quarantined due to COVID-19 who the district determines can fulfill their job duties remotely.”*
- Our reading is that Section 5 expired on Dec. 31, 2021, so it doesn't apply at this point. However, Section 7 also applies to situations “when a school district utilizes a student attendance day under an approved nontraditional instructional plan due to COVID-19.”
- There is no time limit on Section 7, so it seems that teachers would be required to work on-site during a day when a district is closed due to COVID. Closures for other health and safety reasons – such as the flu – would not require teachers to work on-site.

# KDE Superintendents' Webinar

## January 2022

Connie Gayle White, MD, MS, FACOG

Deputy Commissioner for Clinical Affairs



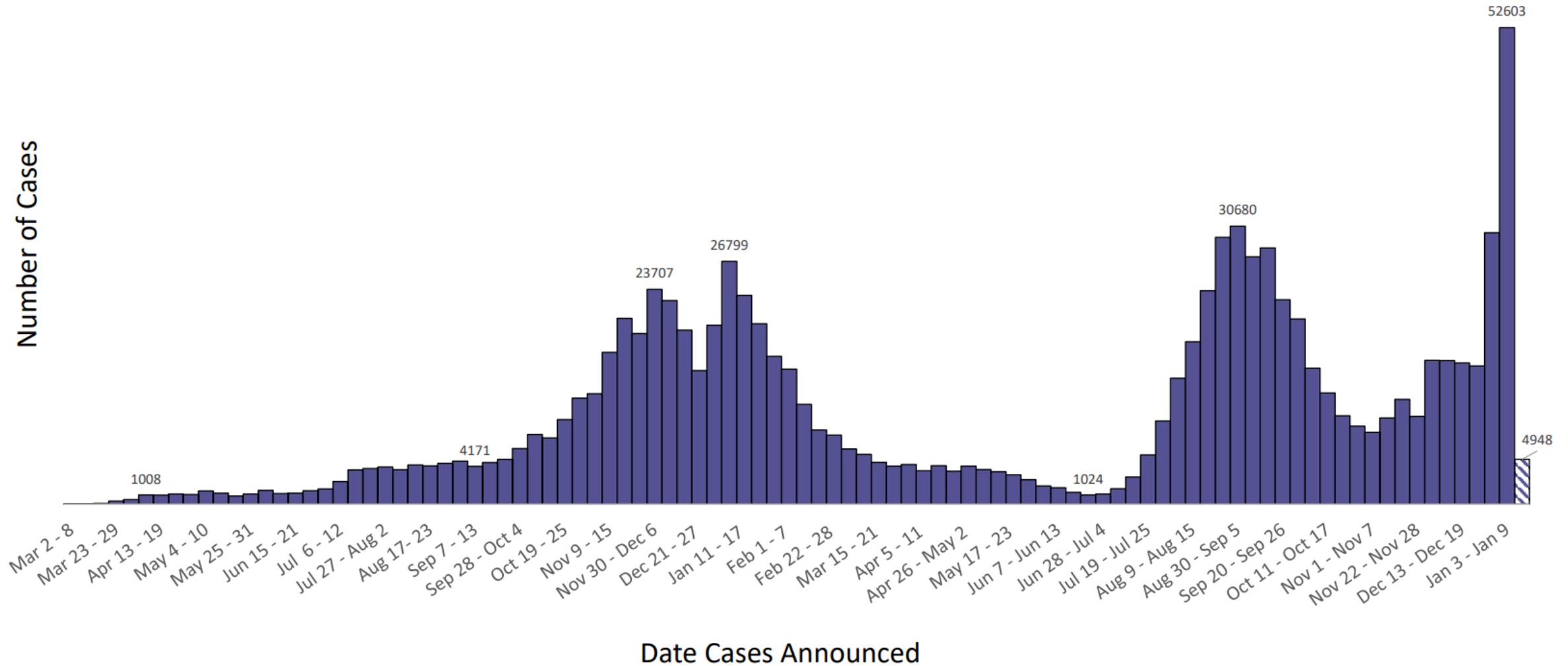
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KENTUCKY CABINET FOR  
HEALTH AND FAMILY SERVICES



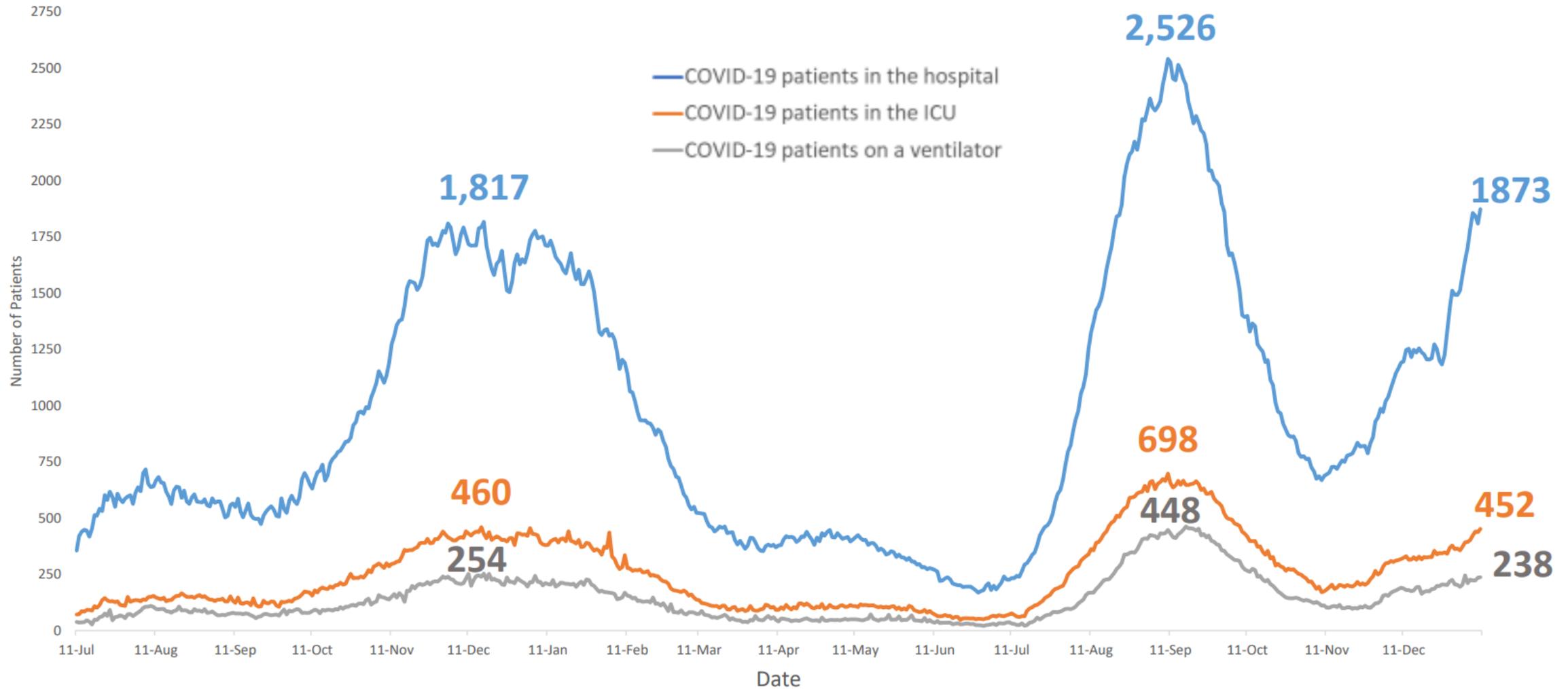
**Kentucky Public Health**  
Prevent. Promote. Protect.

# Kentucky COVID-19 New Cases by Week (n = 932,552)



Last Updated January 10, 2022

# COVID-19 hospitalization, ICU, and ventilator census in Kentucky hospitals - July 11, 2020 – January 10, 2022



Last Updated January 10, 2022

# K-12 Schools

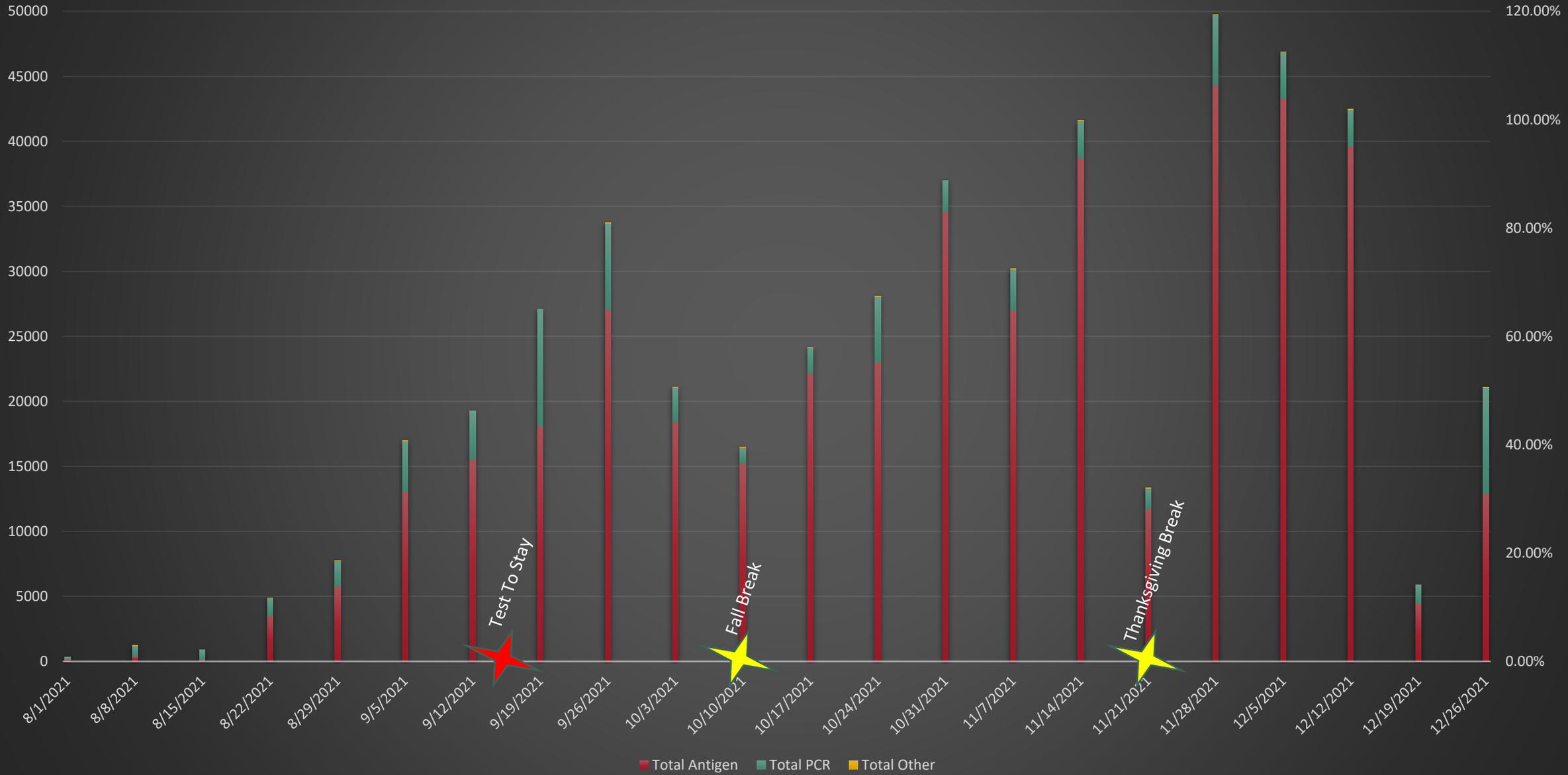
## Isolation and Quarantine



Schools <u>with</u> universal masking	Schools <u>without</u> universal masking
<ul style="list-style-type: none"><li>• <b>Isolate</b> individuals who test positive <b>at least 5 days</b></li></ul>	<ul style="list-style-type: none"><li>• <b>Isolate</b> individuals who test positive <b>at least 5 days</b></li></ul>
<ul style="list-style-type: none"><li>• <b>No</b> contact tracing needed for at-school exposures</li></ul>	<ul style="list-style-type: none"><li>• <b>Conduct contact tracing</b> following at-school exposures to identify close contacts</li></ul>
<ul style="list-style-type: none"><li>• <b>No</b> quarantine needed for at-school exposures</li></ul>	<ul style="list-style-type: none"><li>• <b>Quarantine</b> individuals <u>not up-to-date</u> with COVID-19 vaccination exposed to COVID-19 at school at least 5 days, unless in a test-to-stay modified quarantine</li></ul>
<ul style="list-style-type: none"><li>• <b>Quarantine</b> individuals <u>not up-to-date</u> with COVID-19 vaccination who are exposed to COVID-19 at home for at least 5 days, unless participating in a test-to-stay modified quarantine</li></ul>	<ul style="list-style-type: none"><li>• <b>Quarantine</b> individuals <u>not up-to-date</u> with COVID-19 vaccination who are exposed to COVID-19 at home for at least 5 days, unless participating in a test-to-stay modified quarantine</li></ul>

January 10, 2022

# Number of tests for the K-12 School COVID Testing Program, by week



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# Legislative Updates

Jason E. Glass, Ed.D.

Commissioner of Education and Chief Learner



# A Busy Session So Far ...

- We are in week two of the legislative session and more than 300 bills have been introduced.
- KDE is tracking more than 50 bills.
- Redistricting resulting from the 2020 census dominated legislative activities last week.
- The House released HB1, their budget bill, on Friday. Gov. Beshear announced his education-related budget items yesterday.
- Both versions of the budget fund MANY of the budget needs of K-12 education.
- We see bills related to the COVID emergency and the December tornado disaster receiving attention this week.

# Bills Related to KDE, KBE Legislative Priorities

- COVID operational flexibility:
  - Calendar flexibility
  - Hiring flexibility
  - COVID mitigation
- Streamline the facilities construction process
- Strengthen the educator pipeline
- Funding for K-12 education, including the SEEK base, SEEK transportation, full-day kindergarten, universal pre-K for 4-year-olds (included in the governor's budget), textbooks and instructional materials and professional development
- Literacy improvement
- Funding for ATCs

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# ESSER Integrated Data Reporting

Robin Kinney, KDE Associate Commissioner  
Office of Finance and Operations

# USED ESSER Integrated Data Reporting

- In response to public comment, the data collection for the Elementary and Secondary School Emergency Relief (ESSER) Fund annual performance reporting period has been adjusted
- Reporting period has been moved back to May 2022
- Changes have been made to final data collection form
- Final draft of data collection form can be found on the KDE webpage [COVID-19 Resources for Finance Officers](#)
  - This form should not be completed or populated for submission of data. The final form has been posted for information purposes only.
  - CCSSO has noted that there have been reductions to the “subgroup” data that is being requested and all requested data is now aligned to NCES groupings.
- KDE will provide additional information to districts regarding how to submit data to be included in the report. Any additional information received will be shared at the next finance officer webcast, which is set for Thursday, January 20, 2022. Any questions after the webcast, should be directed to Jessi Carlton at [Jessica.Carlton@education.ky.gov](mailto:Jessica.Carlton@education.ky.gov)

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# OSHA and ETS Updates

Todd Allen, KDE General Counsel  
Office of Legal Services

# ETS Background

- OSHA has determined that:
  - Many employees in the United States who are not fully vaccinated against COVID-19 face grave danger from exposure to SARS-CoV-2 in the workplace.
  - An Emergency Temporary Standard (ETS) is needed to protect employees through the most effective and efficient workplace control available, which is vaccination.

# Effective Dates

- ETS effective immediately upon publication in the Federal Register.
- Compliance dates:
  - Jan. 10, 2022: Provisions other than testing for employees who have not completed entire primary vaccination.
  - Feb. 9, 2022: Testing for employees who have not received all doses required for a primary vaccination.
- Kentucky Labor Cabinet must file emergency regulation implementing the ETS.
  - Jan. 24, 2022: Emergency regulation implementing provisions of the ETS.
  - Feb. 23, 2022: Labor Cabinet to initiate enforcement.

# Pending Litigation

- ETS suits pending in 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 11th, and D.C. Circuits of the United States court system.
  - Federal Rules for Multidistrict Litigation provides random selection of one circuit for consolidated litigation. Consolidated in 6th Circuit Court of Appeals.
- 6th Circuit reversed a Nov. 12, 2021, order of the 5th Circuit granting a motion to stay OSHA's COVID-19 Vaccination and Testing Emergency Temporary Standard.
- The matter was appealed to the U.S. Supreme Court, which held arguments on Jan. 7, 2022. An order is expected prior to Feb. 9, 2022.

# Scope

- Employers Covered:
  - All employers with 100 or more employees firm wide at any time the ETS is in effect.
  - Kentucky has an OSHA-approved state plan. Therefore, the ETS applies to state and local government employers.
- Employees Not Covered:
  - Not reporting to a workplace where coworkers or customers are present
  - Working from home
  - Working exclusively outdoors
    - However, still count in total employee number

# Definitions

- COVID-19 Test: A test for SARS-CoV-2 cleared, approved or authorized by the U.S. Food & Drug Administration to detect current infection – i.e. a viral test. Can't be self-administered or self-read unless observed by the employer or an authorized telehealth proctor.
- Fully vaccinated: Two weeks after an individual completes primary vaccination if the required waiting time between doses has been met. Must be approved or authorized for use by U.S. Food & Drug Administration or World Health Organization.
  - Mixed dose vaccinations are acceptable.

# Employer Policy on Vaccination

- Must establish, implement and enforce a mandatory vaccination policy
- Requires all existing and new employees to be fully vaccinated other than employees with medical contraindications, for whom medical necessity requires a delay in vaccination, or who are legally entitled to a reasonable accommodation (disability, sincerely held religious belief)
- In writing
- EXEMPTION – mandatory vaccination policy not required if employer has written policy permitting each employee to choose between: (1) vaccination; or (2) providing proof of regular testing and wearing a face covering.

# Determination of Vaccination Status

- Required to determine the vaccination status of each employee
- Failure to provide acceptable proof – employee treated as not fully vaccinated
- Required to preserve acceptable proof of vaccination and roster of each employee’s vaccination status
- Proof of vaccination and roster considered to be and maintained as confidential employee medical records (29 CFR §1910.1020) while the ETS is in effect.

# Acceptable Proof of Full or Partial Vaccination

- Record of immunization from a health care provider or pharmacy
- Copy of COVID-19 vaccination record card
- Copy of medical records documenting the vaccination
- Copy of immunization records from a public health, state or tribal immunization information system
- Copy of other official documentation containing type of vaccine, date(s) of administration, and name of health care professional or clinic administering the vaccine
- Signed and dated attestation ONLY where employee has lost or is otherwise unable to produce other acceptable proof. Must include specific language that the attestation is truthful and accurate.

# What if Employer Determined Vaccine Status Prior to ETS Effective Date?

- EXEMPTION – If the employer has asked employees about their vaccination status prior to the effective date of the ETS and retained records of employee responses, the employer is:
  - NOT required to re-evaluate vaccination status for fully vaccinated employees
  - Permitted to use any record of response, even if it is not listed as acceptable proof under the ETS
  - Required to create a roster of each employee's vaccination status
  - Required to maintain proof of vaccination and roster as confidential employee medical records while the ETS is in effect

# Employer Support of Vaccination

- Must provide up to 4 hours paid time for each primary vaccination series dose, including travel time. This is actual time for vaccination.
- Must provide reasonable amount of paid sick leave to recover from any side effects experienced following each primary vaccination series dose. This can be in the form of already accrued sick leave. However, additional leave must be provided if the employee doesn't have sufficient accrued leave.

# Testing Requirements

- Each employee who is not fully vaccinated and:
  - Reports at least once every 7 days to a workplace where coworkers or customers are present
    - Must be tested at least once every 7 days and provide test result documentation
    - Must be removed from the workplace for not providing test result documentation; return upon providing test documentation
  - Reports less frequently than every 7 days to a workplace where coworkers or customers are present
    - Must be tested within 7 days prior to returning to the workplace
    - Must provide documentation of test result upon return to the workplace

# Cost of Testing

- Employer is not required to pay for any costs associated with testing
- Employer payment for testing may be required by other laws, regulations or collective bargaining agreements or other collectively negotiated agreements.
- Employer not prohibited from paying for costs associated with testing
  - Districts may consider testing programs offered through the Kentucky Department for Public Health

# Exemption from Testing

- Employers are prohibited from requiring regular COVID-19 testing of employees who are not fully vaccinated for 90 days after:
  - Positive COVID-19 test; or
  - Positive diagnosis by a licensed health care provider
- This must be included in written policies for employers that opt to allow employees to test weekly and wear face coverings in lieu of mandatory vaccination.

# Records of Test Results

- Test results must be maintained by the employer for each employee who is not fully vaccinated while the ETS is in effect. These results are considered confidential medical records.

# Employee Notification to Employer of COVID-19 Positive Status and Removal

- Employers must require each employee, regardless of vaccination status, to promptly notify the employer that they are COVID-19 positive
- The employer must immediately remove the employee from the workplace
- Return to work is allowed:
  - When an employee receives a negative result on a confirmatory COVID-19 NAAT or PCR test following a positive result on a COVID-19 antigen test; or
  - When CDC criteria in “Isolation Guidance” is met; or
  - When recommended by a licensed health care provider
- Employers are not required to provide paid time for removal
- Paid time may be required by other laws, regulations or collective bargaining agreements or other collectively negotiated agreements.

# Face Coverings

- **Face Covering:** A covering that completely covers the nose and mouth of the wearer, excluding a face shield, which is made from two or more layers of breathable fabric that is tightly woven and is secured to the wearer's head with ties, ear loops or elastic head bands that go behind the head, and is a solid piece of material without slits, exhalation valves, visible holes or other openings in the material.
- Employers must ensure employees who are not fully vaccinated wear a face covering when:
  - Indoors
  - When occupying another vehicle with another person for work purposes
- **Exceptions:**
  - When alone in a fully enclosed room with door closed
  - For a limited time when eating or drinking or for safety and security identification purposes
  - When wearing respirators or facemasks
  - Where use of face coverings is infeasible or creates a greater hazard

# Employer Responsibilities for Monitoring Face Coverings

- Must ensure proper use of face coverings:
  - Fully cover nose and mouth
  - Replaced when wet, soiled or damaged
- Must permit employees to:
  - Voluntarily wear face coverings or facemasks unless doing so would create a risk of serious injury or death
  - Wear respirators instead of face coverings whether required or not
- May provide respirators to employees, even if not required. If provided, must comply with OSHA Standard 1910.504.
- Must not prohibit wearing of face coverings by customers or visitors

# Information Provided to Employees

- Contents must include:
  - Requirements of the ETS 1910.501
  - Employer policies and procedures
  - COVID-19 vaccine efficacy, safety and benefits by providing the CDC document, *Key Things to Know About COVID-19 Vaccines*
  - Non-discrimination requirements of Section 11(c) and 29 CFR §1904.35
  - Prohibitions of 18 U.S.C. §1001 and Section 17(g) of the OSH Act providing for criminal penalties associated with knowingly supplying false statements or documentation.
- Appropriate language and literacy level
- If policies or procedures change, must provide updates to employees.

# Reporting COVID-19 Fatalities and Hospitalizations to OSHA

- Work-related fatality must be reported within 8 hours of learning:
  - Employee has died of a confirmed case of COVID-19; and
  - The cause was a work-related exposure to COVID-19
- Work-related in-patient hospitalization must be reported within 24 hours of learning:
  - Employee has been hospitalized due to COVID-19; and
  - COVID-19 exposure was work-related
- Kentucky OSH request:
  - KOSH asks that school districts please **DO NOT REPORT** every hospitalization or death. Rather, KOSH requests that when a district employee is hospitalized or dies due to COVID, the district make a **REASONABLE GOOD FAITH EFFORT TO DETERMINE** whether the hospitalization or death due to COVID **WAS ACTUALLY WORK-RELATED**. In other words, were there factors that would lead you to believe that the employee contracted COVID while at work. If your investigation finds the employee was not exposed to COVID-19 in the workplace, KOSH says that you are **NOT REQUIRED TO REPORT** (they do recommend you keep a record of your determination). If your investigation, through contact tracing or other means, finds the employee was exposed to COVID-19 at work, make the report and provide your reasoning.

# Availability of Records

- Individual vaccine information and test results provided to that employee and anyone having written consent, by the end of the next business day after request.
- Aggregate number of fully vaccinated employees at a workplace and the total number of employees at that workplace provided:
  - To any employee or employee representative, by the end of the next business day after request; or
  - To the OSHA assistant secretary, within 4 business hours of request
- Employer's written vaccination policy provided to the OSHA assistant secretary within 4 business hours of request.
- All other records and documents provided to the OSHA assistant secretary by the end of next business day after request.

# OSHA Resources

- Visit the OSHA website at [www.osha.gov/coronavirus](https://www.osha.gov/coronavirus)
  - Model Policies
  - Fact Sheets
  - Compliance Assistance Materials
  - FAQs

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# Diversity, Equity and Inclusion Updates

Thomas Woods-Tucker, Ph.D.

Deputy Commissioner and Chief Equity Officer  
and

Damien Sweeney, Ed.D.

Director of Diversity, Equity and Inclusion



# New Diversity, Equity and Inclusion Coordinators

- Central Kentucky Educational Cooperative (CKEC): **Jamie Nebbitt**
- Green River Regional Educational Cooperative (GRREC): **Stephen Moats**
- Kentucky Educational Development Corporation (KEDC): **Andy Dotson**
- Kentucky Valley Educational Cooperative (KVEC): **Bernadette Carpenter**
- Northern Kentucky Cooperative for Educational Services (NKCES): **Jessica Pass**
- Ohio Valley Educational Cooperative (OVEC): **Alexandra Hughes**
- Southeast/South Central Education Cooperative: **Meau Jones**
- West Kentucky Educational Cooperative (WKEC): **Sarah Akin and Roger Cleveland**

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# Communications Updates

Toni Konz Tatman

KDE Chief Communications Officer

Office of the Commissioner



Kentucky Department of

**E D U C A T I O N**

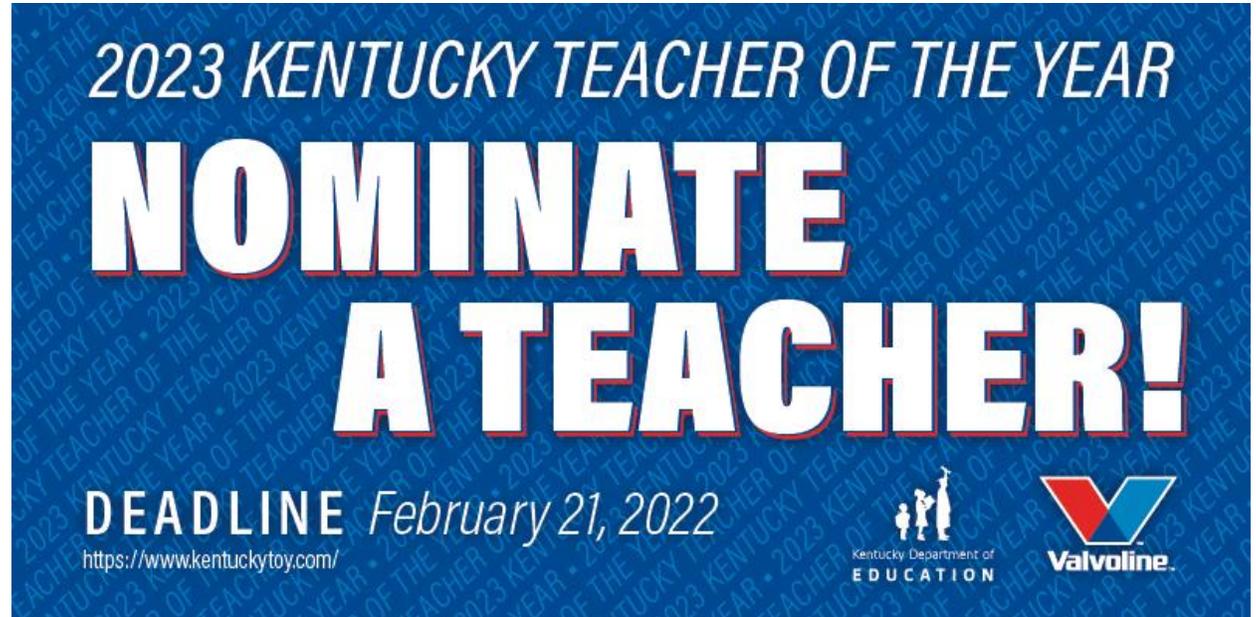
# Robinson Award for Diversity and Equity in Public Education



- The Kentucky Board of Education (KBE) accepting nominations for the 2022 Robinson
- Award is given to an individual or group in Kentucky for outstanding leadership, commitment and service in promoting equity and opportunities to learn at high levels for all Kentucky students
- [Nominations accepted](#) through **Jan. 13**

# 2023 Teacher of the Year Nominations Open

- Sponsored by the KDE and [Valvoline Inc.](#), any full-time public school teacher in the state with at least three years of experience is eligible.
- [Nominations may be submitted via this Google Form.](#)
- Nominators can be students, parents, teaching peers, principals, superintendents or anyone from the community who has an interest in honoring an outstanding educator
- Up to 24 Valvoline Teacher Achievement Award winners will be announced in the spring.
- The Kentucky Teacher of the Year will be announced later this year.



# Comprehensive School Counseling Hire

- Heather Bushelman hired as KDE program coordinator for comprehensive school counseling
- She has been an educator for 19 years, including five years in an elementary classroom.
- Created three comprehensive counseling programs in Warren and Boone counties over past 14 years
- Bushelman will oversee minimum high school graduation requirements, Individual Learning Plans and accelerated learning, including Advanced Placement, International Baccalaureate, Cambridge International and dual credit. She also will help co-lead the work on a Kentucky framework for social and emotional learning.
- You can reach her at [heather.bushelman@education.ky.gov](mailto:heather.bushelman@education.ky.gov)



# Brian Perry named KDE's director of government relations

- Will coordinate the development of legislative policy and agendas, track education legislation and coordinate legislative committee requests for information and testimony
- Previously served as the legislative liaison for the Kentucky Community and Technical College System
- Woodford County native and a graduate of Woodford County High School
- Earned bachelor's degrees in psychology and justice and policy studies from Guilford College (Greensboro, N.C.), and a master's in industrial and organizational psychology from Eastern Kentucky University, currently pursuing a doctorate in education policy and evaluation at the University of Kentucky



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# Next Superintendents Webcast

Feb. 8, 2022



Kentucky Department of  
**EDUCATION**