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Commissioner of Education and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
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MEMORANDUM No. 51

TO: Kentucky School District Finance and Facility Directors, Architects, Engineers, Construction Managers and Fiscal Agents serving K-12 Public Schools

FROM: Greg Dunbar, Manager, District Facilities Branch greg.dunbar@education.ky.gov

DATE: August 2, 2022

RE: Emergency Procedures

Recent natural disasters have devastated many communities in Kentucky and damaged school facilities in multiple districts. Our thoughts and prayers go out to all affected. As all areas of the Kentucky Department of Education assist districts with other matters, our concern is the damage done to district facilities and how to assist districts in addressing the challenges of repairing or replacing these facilities as quickly as possible. 702 KAR 4:160 contains provisions for emergency situations. Below are relevant portions of that regulation with commentary intended to allow districts to move forward quickly, streamline approvals from this office, and provide options for funding needed work (regulatory language in standard type - **commentary in bold type**).

702 KAR 4:160. Capital construction process.
Section 1. Definitions.

(8) "Emergency" means a situation which creates a threat or impending threat to public health, welfare, or safety that may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, theft, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar unforeseen events, and which results in the loss of use of the physical facilities.

- **Address the safety of the persons on site and contact emergency personnel as required.**
- **Contact your insurance carrier.**
- **Depending on the scope of the damage, contact maintenance personnel to waterproof the building or acquire resources such as local contractors with appropriate equipment to stabilize the building if needed.**
- **Take photographs for future reference.**
- **Keep records of all volunteers' hours, equipment rented, materials purchased and payments to contractors for possible future reimbursement.**

- **Corrective actions may require professional design services (licensed architect and / or engineer) as required by statutes.**
- **Contact the authority having jurisdiction related to the Kentucky Building Code.**
- **Contact District Facilities Branch.**

Section 2. Construction Project Application.

(1) The board shall submit an application on the BG-1 Project Application Form (BG-1 Form), to the department for approval of a proposed construction project. **BG-1 is to be submitted via FACPAC.**

(6) If an emergency occurs, impacting an activity for which a BG-1 Form is required:

(a) The superintendent shall:

1. Proceed with corrective actions, as needed;
2. Notify the department of the emergency and request approval to continue with the plans and corrective action; **A phone call or email from the superintendent to this office are acceptable.**
3. Advise the board to declare an emergency in accordance with the district's officially adopted procurement method under KRS 424.260 or 45A.380 and
 - **An emergency can be declared by the Superintendent and confirmed by the local board at its next meeting;**
4. Submit to the department:
 - a. BG-1 Form and
 - b. The board order declaring the emergency; and
 - **Districts that have not adopted HB 678 (2022 reg) shall submit to KDE for approval.**
 - **Districts that have adopted HB 678 (2022 reg) shall submit to KDE for recordkeeping and data collection purposes.**
 - **Submit after the next board meeting, but do not slow down the process to address the emergency.**

(b) The department shall process the emergency BG-1 Form request within seven (7) calendar days of receipt.

The following fund sources may be available for the work:

- **Insurance (where covered)**
- **General Fund**
- **Building Fund Cash**
- **Capital outlay Cash**
- **SFCC Cash escrow**
- **Special appropriations through the School Facilities Construction Commission (SFCC) as may become available.**
- **Federal Emergency Management Administration (FEMA) funds subject to federal requirements.**

If the scope of the work cannot be covered by available cash sources, the work may be able to be bonded. This can be determined as the project is unfolding with the help of your fiscal agent, design team and KDE.

Please contact me with any questions at (502) 564-4326 ext. 4429 or KDE's staff architect assigned to the district.