

Policy Connection

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KSBA on the Web: www.ksba.org

Katrina Kinman,
Editor

Policy Connection is a free quarterly publication provided by the KSBA Policy Service that is sent to all board members, superintendents, and others who request to receive it.

AFFORDABLE CARE ACT

The Affordable Care Act (ACA) is a complex and evolving law, so consultation with board legal counsel regarding compliance and optimal solutions for your district is a must. At your request, KSBA policy consultants can provide policy drafts for board consideration that address certain implementation elements of the ACA.

NOTE: If a district employs an average of less than 50 full-time and full-time equivalent employees (FTEs) as determined under ACA guidelines on business days during the preceding calendar year, it is not subject to the ACA. Also, if the variable-hour workforce of the district that is not offered insurance is less than 5 percent (or five employees, whichever is greater) of the total workforce under ACA standards, the district will be considered in substantial compliance under current guidelines and will avoid major ACA penalties.

As part of guidance issued by the Kentucky Department of Education, the following action options may be considered:

- Amend policy 03.4/Substitutes and policies 03.124 and 03.224/Insurance to limit the number of hours variable hour employees are permitted to work to a maximum of 29 service hours per week, subject to the Superintendent's discretion. (Only those who average at least 30 service hours per week or 130 service hours per month must be offered health care coverage.) Note that we believe the criteria for priority employment of certified substitutes based on qualifications (16 KAR 2:030, Section 2) would still have to be observed. Please contact your district's assigned policy consultant for assistance in drafting the policy changes you want to pursue.

- Based on recommendations from staff and consistent with KDE guidance (see link below), boards also may wish to consider action via a board resolution to set measurement, administrative, and stability periods relating to whether "variable employees" (such as substitutes) are considered "full-time" under the ACA to minimize potential exposure to ACA penalties. This should be discussed with board counsel in light of the KDE guidance. District representatives also may contact staff attorney John Fogle for general background information about framing such a resolution. KSBA wishes to thank Fairview Independent Finance Officer Ernie Sharp for his insight and assistance on this matter.

- Based on recommendations from staff and consistent with KDE guidance (see link below), boards also may wish to consider action via a board resolution to set measurement, administrative, and stability periods relating to whether "variable employees" (such as substitutes) are considered "full-time" under the ACA to minimize potential exposure to ACA penalties. This should be discussed with board counsel in light of the KDE guidance. District representatives also may contact staff attorney John Fogle for general background information about framing such a resolution. KSBA wishes to thank Fairview Independent Finance Officer Ernie Sharp for his insight and assistance on this matter.

[Click here](#) for the link to the KDE guidance referenced above.

— Policy References 03.124/03.224, 03.4

ELECTRONIC PAYMENTS AND RECEIPTS

If your board is interested in adopting policy language authorizing use of electronic fund transfers (ETF) to both receive funds and disburse payments, please contact your district's policy consultant for sample language along these lines:

The Board authorizes the acceptance of electronic payments and receipts and electronic disbursement of payments through electronic fund transfers in accordance with *Accounting Procedures for Kentucky School Activity Funds* and applicable laws and regulations.

— Policy Reference 04.311

UPCOMING POLICY-RELATED TRAINING EVENTS

Student Discipline - Friday, Nov. 15, Lexington Embassy Suites.

Incoming Director of Policy and eMeeting Services Katrina Kinman will highlight numerous student discipline policies and share the latest edition of the discipline code statute/board policy crosswalk. [Click here](#) for more information.

— Policy Reference Section 09.4xxx

Supervisors of Classified Personnel - Friday, Dec. 13, Lexington Embassy Suites.

Senior Policy Consultant and eMeeting trainer Kim Barker will co-present with KSBA legal staff, sharing policies related to management of classified personnel. [Click here](#) for more information.

— Policy Reference Section 03.2xxx

WELCOME TO OUR NEW SUBSCRIBERS!

Policy Service - KDE Office of Career and Technical Education

Online Manual Service - Garrard County Board of Education

Employee Handbook Service - Clinton County Board of Education

Substitute Teacher Handbook Service - Knox County Board of Education

eMeeting Service - Breathitt County and Hopkins County Boards of Education

DISTRIBUTION OF OUTSIDE MATERIALS TO STUDENTS

The KSBA Policy Service stands ready to assist your board in setting policy concerning distribution of materials from outside groups or individuals. Districts should consult with counsel when considering any amendments to current policy 10.4. Approaches may include:

1. Amend policy to require prior superintendent/designee approval of all materials provided by any outside group/individual and to designate standards by which outside materials will be reviewed for school distribution or, if permitted, commercial advertisements. This approach will define "non-school materials," provide standards for denial, and allow for attorney review concerning materials implicating free speech or Establishment Clause concerns.

(over)



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For purposes of distribution of materials at the school level, the superintendent may designate a principal or other site supervisor to conduct the review.

Option 1: Can require distributing party to include a disclaimer that the district does not endorse the material.

Option 2: Specify that only non-profit/governmental material is subject to distribution. This approach would eliminate distribution from outside commercial entities/individuals, but would not prevent approved fundraisers.

2. Amend policy to permit a materials display table at the middle and high school levels during a designated time each school year. With this approach, one day per school year would be designated for "passive" distribution. Adults would not hand-out materials or be in vicinity of materials. Staff would follow all safeguards in policy including no employee participation, prominent disclaimers and disclaimer signs. Materials from all religious groups and those espousing non-religious viewpoints or beliefs must be permitted to provide materials. If the district wishes to consider such an amendment, KSBA recommends this

be used only with middle and high school students. Per KSBA Legal Services, consultation with counsel is especially critical if this approach is being considered. District representatives or board counsel may contact KSBA staff attorney John Fogle to discuss this approach.

3. Amend policy to prohibit any distribution of materials in the schools by outside groups (closed forum).

Thanks to KSBA Staff Attorney John Fogle for contributing to this article.

— Policy Reference 10.4

YOUR ONLINE CONNECTION

If you currently receive a paper edition of this newsletter, but would prefer to get it via email ONLY, please send your request to Katrina Kinman (katrina.kinman@ksba.org), along with your school district and position (employee, board member, etc.). We appreciate your helping KSBA save printing and mailing costs.

FAREWELL MESSAGE

It is with a full heart that as of Dec. 31 I will be saying farewell to the many wonderful folks with whom I have had the honor and pleasure to work for almost 30 years. As retirement approaches, I look back on friendships I will treasure and pride in the work that we have accomplished together on behalf of public school students. During my time at KSBA, my own children have graduated from public high schools and colleges, and from a parent's point of view, I am deeply proud of how well their public education has served them.

As I leave the directorship of policy and eMeeting services in the capable hands of Katrina Kinman, I also want to recognize the rest of our outstanding staff whose support and hard work, along with that of many other fine KSBA folks, have contributed to the success of our services:

- Kim Barker, Senior Policy Consultant and eMeeting Trainer
- Carol Ann Jehnsen, Administrative Assistant II EXTRAORDINAIRE
- Janet Jeanes, Principal Policy and Procedure Consultant

Thanks to all of you – board members, superintendents, Kentucky Organization of Superintendents' Administrative Assistants members, central office and school staff, and other policy-minded friends. I hope we can meet again as we continue to work toward our shared goal of a vital and ever-improving public education system.

Dara

Dara A. Bass, KSBA Director of Policy and eMeeting Services



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