

1 AN ACT relating to student health.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 160.345 is amended to read as follows:

4 (1) For the purpose of this section:

5 (a) "Minority" means American Indian; Alaskan native; African-American;
6 Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or
7 South American origin; Pacific islander; or other ethnic group
8 underrepresented in the school;

9 (b) "School" means an elementary or secondary educational institution that is
10 under the administrative control of a principal and is not a program or part of
11 another school. The term "school" does not include district-operated schools
12 that are:

- 13 1. Exclusively vocational-technical, special education, or preschool
14 programs;
- 15 2. Instructional programs operated in institutions or schools outside of the
16 district; or
- 17 3. Alternative schools designed to provide services to at-risk populations
18 with unique needs;

19 (c) "Teacher" means any person for whom certification is required as a basis of
20 employment in the public schools of the state, with the exception of principals
21 and assistant principals; and

22 (d) "Parent" means:

- 23 1. A parent, stepparent, or foster parent of a student; or
- 24 2. A person who has legal custody of a student pursuant to a court order
25 and with whom the student resides.

26 (2) Each local board of education shall adopt a policy for implementing school-based
27 decision making in the district which shall include but not be limited to a

1 description of how the district's policies, including those developed pursuant to
2 KRS 160.340, have been amended to allow the professional staff members of a
3 school to be involved in the decision-making process as they work to meet
4 educational goals established in KRS 158.645 and 158.6451. The policy may
5 include a requirement that each school council make an annual report at a public
6 meeting of the board describing the school's progress in meeting the educational
7 goals set forth in KRS 158.6451 and district goals established by the board. The
8 policy shall also address and comply with the following:

9 (a) Except as provided in paragraph (b)2. of this subsection, each participating
10 school shall form a school council composed of two (2) parents, three (3)
11 teachers, and the principal or administrator. The membership of the council
12 may be increased, but it may only be increased proportionately. A parent
13 representative on the council shall not be an employee or a relative of an
14 employee of the school in which that parent serves, nor shall the parent
15 representative be an employee or a relative of an employee in the district
16 administrative offices. A parent representative shall not be a local board
17 member or a board member's spouse. None of the members shall have a
18 conflict of interest pursuant to KRS Chapter 45A, except the salary paid to
19 district employees;

20 (b) 1. The teacher representatives shall be elected for one (1) year terms by a
21 majority of the teachers. A teacher elected to a school council shall not
22 be involuntarily transferred during his or her term of office. The parent
23 representatives shall be elected for one (1) year terms. The parent
24 members shall be elected by the parents of students preregistered to
25 attend the school during the term of office in an election conducted by
26 the parent and teacher organization of the school or, if none exists, the
27 largest organization of parents formed for this purpose. A school

1 council, once elected, may adopt a policy setting different terms of
2 office for parent and teacher members subsequently elected. The
3 principal shall be the chair of the school council.

4 2. School councils in schools having eight percent (8%) or more minority
5 students enrolled, as determined by the enrollment on the preceding
6 October 1, shall have at least one (1) minority member. If the council
7 formed under paragraph (a) of this subsection does not have a minority
8 member, the principal, in a timely manner, shall be responsible for
9 carrying out the following:

10 a. Organizing a special election to elect an additional member. The
11 principal shall call for nominations and shall notify the parents of
12 the students of the date, time, and location of the election to elect a
13 minority parent to the council by ballot; and

14 b. Allowing the teachers in the building to select one (1) minority
15 teacher to serve as a teacher member on the council. If there are no
16 minority teachers who are members of the faculty, an additional
17 teacher member shall be elected by a majority of all teachers. Term
18 limitations shall not apply for a minority teacher member who is
19 the only minority on faculty;

20 (c) 1. The school council shall have the responsibility to set school policy
21 consistent with district board policy which shall provide an environment
22 to enhance the students' achievement and help the school meet the goals
23 established by KRS 158.645 and 158.6451. The principal shall be the
24 primary administrator and the instructional leader of the school, and
25 with the assistance of the total school staff shall administer the policies
26 established by the school council and the local board.

27 2. If a school council establishes committees, it shall adopt a policy to

1 facilitate the participation of interested persons, including, but not
2 limited to, classified employees and parents. The policy shall include the
3 number of committees, their jurisdiction, composition, and the process
4 for membership selection;

5 (d) The school council and each of its committees shall determine the frequency
6 of and agenda for their meetings. Matters relating to formation of school
7 councils that are not provided for by this section shall be addressed by local
8 board policy;

9 (e) The meetings of the school council shall be open to the public and all
10 interested persons may attend. However, the exceptions to open meetings
11 provided in KRS 61.810 shall apply;

12 (f) After receiving notification of the funds available for the school from the local
13 board, the school council shall determine, within the parameters of the total
14 available funds, the number of persons to be employed in each job
15 classification at the school. The council may make personnel decisions on
16 vacancies occurring after the school council is formed but shall not have the
17 authority to recommend transfers or dismissals;

18 (g) The school council shall determine which textbooks, instructional materials,
19 and student support services shall be provided in the school. Subject to
20 available resources, the local board shall allocate an appropriation to each
21 school that is adequate to meet the school's needs related to instructional
22 materials and school-based student support services, as determined by the
23 school council. The school council shall consult with the school media
24 librarian on the maintenance of the school library media center, including the
25 purchase of instructional materials, information technology, and equipment;

26 (h) Personnel decisions at the school level shall be as follows:

27 1. From a list of qualified applicants submitted by the local superintendent,

1 the principal at the participating school shall select personnel to fill
2 vacancies, after consultation with the school council, consistent with
3 paragraph (i)11. of this subsection. The superintendent shall provide
4 additional applicants to the principal upon request when qualified
5 applicants are available. The superintendent may forward to the school
6 council the names of qualified applicants who have pending certification
7 from the Education Professional Standards Board based on recent
8 completion of preparation requirements, out-of-state preparation, or
9 alternative routes to certification pursuant to KRS 161.028 and 161.048.
10 Requests for transfer shall conform to any employer-employee bargained
11 contract which is in effect;

- 12 2. a. i. If the vacancy to be filled is the position of principal, the
13 outgoing principal shall not serve on the council during the
14 principal selection process. The superintendent or the
15 superintendent's designee shall serve as the chair of the
16 council for the purpose of the hiring process and shall have
17 voting rights during the selection process.
- 18 ii. Except as provided in subdivision b. of this subparagraph,
19 the council shall have access to the applications of all
20 persons certified for the position. The principal shall be
21 elected on a majority vote of the membership of the council.
22 The school council shall receive training in recruitment and
23 interviewing techniques prior to carrying out the process of
24 selecting a principal. The council shall select the trainer to
25 deliver the training;
- 26 b. An alternative principal selection process may be used by the
27 school council as follows:

- 1 i. Prior to a meeting called to select a principal, all school
2 council members shall receive informational materials
3 regarding Kentucky open records and open meetings laws
4 and sign a nondisclosure agreement forbidding the sharing of
5 information shared and discussions held in the closed
6 session;
- 7 ii. The superintendent shall convene the school council and
8 move into closed session as provided in KRS 61.810(1)(f) to
9 confidentially recommend a candidate;
- 10 iii. The council shall have the option to interview the
11 recommended candidate while in closed session; and
- 12 iv. After any discussion, at the conclusion of the closed session,
13 the council shall decide, in a public meeting by majority vote
14 of the membership of the council, whether to accept or reject
15 the recommended principal candidate;
- 16 c. If the recommended candidate is selected, and the recommended
17 candidate accepts the offer, the name of the candidate shall be
18 made public during the next meeting in open session;
- 19 d. i. If the recommended candidate is not accepted by the school
20 council under subdivision b. of this subparagraph, then the
21 process set forth in subdivision a. of this subparagraph shall
22 apply.
- 23 ii. The confidentially recommended candidate's name and the
24 discussions of the closed session shall remain confidential
25 under KRS 61.810(1)(f), and any documents used or
26 generated during the closed meeting shall not be subject to an
27 open records request as provided in KRS 61.878(1)(i) and (j).

- 1 iii. A recommended candidate who believes a violation of this
2 subdivision has occurred may file a written complaint with
3 the Kentucky Board of Education.
- 4 iv. A school council member who is found to have disclosed
5 confidential information regarding the proceeding of the
6 closed session shall be subject to removal from the school
7 council by the Kentucky Board of Education under
8 subsection (9)(e) of this section;
- 9 3. No principal who has been previously removed from a position in the
10 district for cause may be considered for appointment as principal in that
11 district;
- 12 4. Personnel decisions made at the school level under the authority of
13 subparagraphs 1. and 2. of this paragraph shall be binding on the
14 superintendent who completes the hiring process;
- 15 5. Applicants subsequently employed shall provide evidence that they are
16 certified prior to assuming the duties of a position in accordance with
17 KRS 161.020;
- 18 6. Notwithstanding other provisions of this paragraph, if the applicant is
19 the spouse of the superintendent and the applicant meets the service
20 requirements of KRS 160.380(3)(a), the applicant shall only be
21 employed upon the recommendation of the principal and the approval of
22 a majority vote of the school council; and
- 23 7. Beginning June 27, 2019, notwithstanding the requirement that a
24 principal be elected on a majority vote of the council in subparagraph 2.
25 of this paragraph, if the school council is in a county school district in a
26 county with a consolidated local government adopted under KRS
27 Chapter 67C, then the selection of a principal shall be subject to

1 approval by the superintendent. If the superintendent does not approve
2 the principal selected by the council, then the superintendent may select
3 the principal;

4 (i) The school council shall adopt a policy to be implemented by the principal in
5 the following additional areas:

- 6 1. Determination of curriculum, including needs assessment, curriculum
7 development and responsibilities under KRS 158.6453(19);
- 8 2. Assignment of all instructional and noninstructional staff time;
- 9 3. Assignment of students to classes and programs within the school;
- 10 4. Determination of the schedule of the school day and week, subject to the
11 beginning and ending times of the school day and school calendar year
12 as established by the local board;
- 13 5. Determination of use of school space during the school day related to
14 improving classroom teaching and learning;
- 15 6. Planning and resolution of issues regarding instructional practices;
- 16 7. Selection and implementation of discipline and classroom management
17 techniques as a part of a comprehensive school safety plan, including
18 responsibilities of the student, parent, teacher, counselor, and principal;
- 19 8. Selection of extracurricular programs and determination of policies
20 relating to student participation based on academic qualifications and
21 attendance requirements, program evaluation, and supervision;
- 22 9. Adoption of an emergency plan as required in KRS 158.162;
- 23 10. Procedures, consistent with local school board policy, for determining
24 alignment with state standards, technology utilization, and program
25 appraisal; and
- 26 11. Procedures to assist the council with consultation in the selection of
27 personnel by the principal, including but not limited to meetings,

1 timelines, interviews, review of written applications, and review of
2 references. Procedures shall address situations in which members of the
3 council are not available for consultation; and

4 (j) Each school council shall annually review data as shown on state and local
5 student assessments required under KRS 158.6453. The data shall include but
6 not be limited to information on performance levels of all students tested, and
7 information on the performance of students disaggregated by race, gender,
8 disability, and participation in the federal free and reduced price lunch
9 program. After completing the review of data, each school council, with the
10 involvement of parents, faculty, and staff, shall develop and adopt a plan to
11 ensure that each student makes progress toward meeting the goals set forth in
12 KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan
13 to the superintendent and local board of education for review as described in
14 KRS 160.340. The Kentucky Department of Education shall provide each
15 school council the data needed to complete the review required by this
16 paragraph no later than October 1 of each year. If a school does not have a
17 council, the review shall be completed by the principal with the involvement
18 of parents, faculty, and staff.

19 (3) The policies adopted by the local board to implement school-based decision making
20 shall also address the following:

21 (a) School budget and administration, including: discretionary funds; activity and
22 other school funds; funds for maintenance, supplies, and equipment; and
23 procedures for authorizing reimbursement for training and other expenses;

24 (b) Assessment of individual student progress, including testing and reporting of
25 student progress to students, parents, the school district, the community, and
26 the state;

27 (c) School improvement plans, including the form and function of strategic

- 1 planning and its relationship to district planning, as well as the school safety
2 plan and requests for funding from the Center for School Safety under KRS
3 158.446;
- 4 (d) Professional development plans developed pursuant to KRS 156.095;
- 5 (e) Parent, citizen, and community participation including the relationship of the
6 council with other groups;
- 7 (f) Cooperation and collaboration within the district, with other districts, and with
8 other public and private agencies;
- 9 (g) Requirements for waiver of district policies;
- 10 (h) Requirements for record keeping by the school council; and
- 11 (i) A process for appealing a decision made by a school council.
- 12 (4) In addition to the authority granted to the school council in this section, the local
13 board may grant to the school council any other authority permitted by law. The
14 board shall make available liability insurance coverage for the protection of all
15 members of the school council from liability arising in the course of pursuing their
16 duties as members of the council.
- 17 (5) All schools shall implement school-based decision making in accordance with this
18 section and with the policy adopted by the local board pursuant to this section.
19 Upon favorable vote of a majority of the faculty at the school and a majority of at
20 least twenty-five (25) voting parents of students enrolled in the school, a school
21 meeting its goal as determined by the Department of Education pursuant to KRS
22 158.6455 may apply to the Kentucky Board of Education for exemption from the
23 requirement to implement school-based decision making, and the state board shall
24 grant the exemption. The voting by the parents on the matter of exemption from
25 implementing school-based decision making shall be in an election conducted by
26 the parent and teacher organization of the school or, if none exists, the largest
27 organization of parents formed for this purpose. Notwithstanding the provisions of

1 this section, a local school district shall not be required to implement school-based
2 decision making if the local school district contains only one (1) school.

3 (6) The Department of Education shall provide professional development activities to
4 assist schools in implementing school-based decision making. School council
5 members elected for the first time shall complete a minimum of six (6) clock hours
6 of training in the process of school-based decision making, no later than thirty (30)
7 days after the beginning of the service year for which they are elected to serve.
8 School council members who have served on a school council at least one (1) year
9 shall complete a minimum of three (3) clock hours of training in the process of
10 school-based decision making no later than one hundred twenty (120) days after the
11 beginning of the service year for which they are elected to serve. Experienced
12 members may participate in the training for new members to fulfill their training
13 requirement. School council training required under this subsection shall be
14 conducted by trainers endorsed by the Department of Education. By November 1 of
15 each year, the principal through the local superintendent shall forward to the
16 Department of Education the names and addresses of each council member and
17 verify that the required training has been completed. School council members
18 elected to fill a vacancy shall complete the applicable training within thirty (30)
19 days of their election.

20 (7) A school that chooses to have school-based decision making but would like to be
21 exempt from the administrative structure set forth by this section may develop a
22 model for implementing school-based decision making, including but not limited to
23 a description of the membership, organization, duties, and responsibilities of a
24 school council. The school shall submit the model through the local board of
25 education to the commissioner of education and the Kentucky Board of Education,
26 which shall have final authority for approval. The application for approval of the
27 model shall show evidence that it has been developed by representatives of the

1 parents, students, certified personnel, and the administrators of the school and that
2 two-thirds (2/3) of the faculty have agreed to the model.

3 (8) The Kentucky Board of Education, upon recommendation of the commissioner of
4 education, shall adopt by administrative regulation a formula by which school
5 district funds shall be allocated to each school council. Included in the school
6 council formula shall be an allocation for professional development that is at least
7 sixty-five percent (65%) of the district's per pupil state allocation for professional
8 development for each student in average daily attendance in the school. The school
9 council shall plan professional development in compliance with requirements
10 specified in KRS 156.095, except as provided in KRS 158.649. School councils of
11 small schools shall be encouraged to work with other school councils to maximize
12 professional development opportunities.

13 (9) (a) No board member, superintendent of schools, district employee, or member of
14 a school council shall intentionally engage in a pattern of practice which is
15 detrimental to the successful implementation of or circumvents the intent of
16 school-based decision making to allow the professional staff members of a
17 school and parents to be involved in the decision making process in working
18 toward meeting the educational goals established in KRS 158.645 and
19 158.6451 or to make decisions in areas of policy assigned to a school council
20 pursuant to paragraph (i) of subsection (2) of this section.

21 (b) An affected party who believes a violation of this subsection has occurred may
22 file a written complaint with the Office of Education Accountability. The
23 office shall investigate the complaint and resolve the conflict, if possible, or
24 forward the matter to the Kentucky Board of Education.

25 (c) The Kentucky Board of Education shall conduct a hearing in accordance with
26 KRS Chapter 13B for complaints referred by the Office of Education
27 Accountability.

- 1 (d) If the state board determines a violation has occurred, the party shall be
2 subject to reprimand. A second violation of this subsection may be grounds
3 for removing a superintendent, a member of a school council, or school board
4 member from office or grounds for dismissal of an employee for misconduct
5 in office or willful neglect of duty.
- 6 (e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the
7 state board determines a violation of the confidentiality requirements set forth
8 in subsection (2)(h)2. of this section by a school council member has
9 occurred, the state board shall remove the member from the school council,
10 and the member shall be permanently prohibited from serving on any school
11 council in the district.
- 12 (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or
13 maintain a school-based decision making council and the powers, duties, and
14 authority granted to a school council may be rescinded or the school council's role
15 may be advisory if the commissioner of education or the Kentucky Board of
16 Education takes action under KRS 160.346.
- 17 (11) Each school council of a school containing grades K-~~8~~⁵ or any combination
18 thereof, or if there is no school council, the principal, shall develop and implement a
19 wellness policy that includes **at least twenty-five (25) minutes, including transition**
20 **time, of** moderate to vigorous physical activity each day and encourages healthy
21 choices **and builds social skills** among students. **The policy shall prioritize free**
22 **play activities taking place outdoors, with weather and safety permitting, and**
23 **provide access to swings, monkey bars, jump ropes, balls, or other equipment that**
24 **encourages physical activity.** The policy may permit physical activity to be
25 considered part of the instructional day, not to exceed thirty (30) minutes per day, or
26 one hundred and fifty (150) minutes per week. Each school council, or if there is no
27 school council, the principal, shall adopt an assessment tool to determine each

1 child's level of physical activity on an annual basis. The council or principal may
2 utilize an existing assessment program. The Kentucky Department of Education
3 shall make available a list of available resources to carry out the provisions of this
4 subsection. The department shall report to the Legislative Research Commission no
5 later than November 1 of each year on how the schools are providing physical
6 activity under this subsection and on the types of physical activity being provided.
7 The policy developed by the school council or principal shall comply with
8 provisions required by federal law, state law, or local board policy.

9 (12) Discretionary authority exercised under subsection (2)(h)2.b. of this section shall
10 not violate provisions of any employer-employee bargained contract existing
11 between the district and its employees.