

1 AN ACT relating to school councils.

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) "Parent" means:

10 1. A parent, stepparent, or foster parent of a student; or

11 2. A person who has legal custody of a student pursuant to a court order
12 and with whom the student resides;

13 (c) "School" means an elementary or secondary educational institution that is
14 under the administrative control of a principal and is not a program or part of
15 another school. The term "school" does not include district-operated schools
16 that are:

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

23 ~~(d)(e)}~~ "Teacher" means any person for whom certification is required as a basis
24 of employment in the public schools of the state, with the exception of
25 principals and assistant principals. ~~;~~ and

26 ~~{(d)}~~ "Parent" means:

27 ~~1. A parent, stepparent, or foster parent of a student; or~~

1 2. ~~A person who has legal custody of a student pursuant to a court order~~
2 ~~and with whom the student resides.]~~

3 (2) Each local board of education shall adopt a policy for implementing school-based
4 decision making in the district which shall include, but not be limited to, a
5 description of how the district's policies, including those developed pursuant to
6 KRS 160.340, have been amended to allow the professional staff members of a
7 school to be involved in the decision making process as they work to meet
8 educational goals established in KRS 158.645 and 158.6451. The policy may
9 include a requirement that each school council make an annual report at a public
10 meeting of the board describing *the activities of the council during the school year*
11 *and* the school's progress in meeting the educational goals set forth in *KRS 158.645,*
12 *KRS 158.6451,* and district goals established by the board. The policy shall also
13 address and comply with the following:

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

25 (b) 1. The teacher representatives shall be elected for one (1) year terms by a
26 majority of the teachers. A teacher elected to a school council shall not
27 be involuntarily transferred during his or her term of office. The parent

1 representatives shall be elected for one (1) year terms. The parent
2 members shall be elected by the parents of students preregistered to
3 attend the school during the term of office in an election conducted by
4 the parent and teacher organization of the school or, if none exists, the
5 largest organization of parents formed for this purpose. A school
6 council, once elected, may adopt a policy setting different terms of
7 office for parent and teacher members subsequently elected.

8 2. The principal shall be the chair of the school council.

9 3.~~[2.]~~ School councils in schools having eight percent (8%) or more minority
10 students enrolled, as determined by the enrollment on the preceding
11 October 1, shall have at least one (1) minority member. If the council
12 formed under paragraph (a) of this subsection does not have a minority
13 member, the principal, in a timely manner, shall be responsible for
14 carrying out the following:

- 15 a. Organizing a special election to elect an additional member. The
16 principal shall call for nominations and shall notify the parents of
17 the students of the date, time, and location of the election to elect a
18 minority parent to the council by ballot; and
- 19 b. Allowing the teachers in the building to select one (1) minority
20 teacher to serve as a teacher member on the council. If there are no
21 minority teachers who are members of the faculty, an additional
22 teacher member shall be elected by a majority of all teachers. Term
23 limitations shall not apply for a minority teacher member who is
24 the only minority on faculty;

- 25 (c) 1. The school council shall have the responsibility to set school policy that
26 shall be consistent with district board policy and which shall provide an
27 environment to enhance the students' achievement and help the school

1 meet the goals established by KRS 158.645,~~[-and]~~ 158.6451, and district
2 goals established by the board.

3 2. The principal shall be the primary administrator and the instructional
4 leader of the school, and with the assistance of the total school staff shall
5 administer the policies established by the school council and the local
6 board.

7 3.~~[2.]~~ If a school council establishes committees, it shall adopt a policy to
8 facilitate the participation of interested persons, including, but not
9 limited to, classified employees and parents. The policy shall include the
10 number of committees, their jurisdiction, composition, and the process
11 for membership selection;

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

16 (e) The meetings of the school council shall be open to the public and all
17 interested persons may attend, including but not limited to members of the
18 local board of education. However, the exceptions to open meetings provided
19 in KRS 61.810 shall apply;

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

26 (g) The school council shall determine which textbooks, instructional materials,
27 and student support services shall be provided in the school. Subject to

1 available resources, the local board shall allocate an appropriation to each
2 school that is adequate to meet the school's needs related to instructional
3 materials and school-based student support services, as determined by the
4 school council. The school council shall consult with the school media
5 librarian on the maintenance of the school library media center, including the
6 purchase of instructional materials, information technology, and equipment;

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

8 1. From a list of qualified applicants submitted by the~~[local]~~
9 superintendent, the principal at the participating school shall select
10 personnel to fill vacancies, after consultation with the school council,
11 consistent with paragraph (i)11. of this subsection. The superintendent
12 shall provide additional applicants to the principal upon request when
13 qualified applicants are available. The superintendent may forward to
14 the principal~~[school council]~~ the names of qualified applicants who
15 have pending certification from the Education Professional Standards
16 Board based on recent completion of preparation requirements, out-of-
17 state preparation, or alternative routes to certification pursuant to KRS
18 161.028 and 161.048. Requests for transfer shall conform to any
19 employer-employee bargained contract which is in effect;

20 2. If the vacancy to be filled is the position of principal, the
21 superintendent or superintendent's designee shall fill the vacancy,
22 after consultation with the school council consistent with paragraph
23 (i)11. of this subsection;~~[a. i. — If the vacancy to be filled is the~~
24 ~~position of principal, the — outgoing principal shall not serve on the~~
25 ~~council during the — principal selection process. The superintendent or~~
26 ~~the — superintendent's designee shall serve as the chair of the — council~~
27 ~~for the purpose of the hiring process and shall have — voting — rights~~

1 during the selection process.

2 ii. ~~Except as provided in subdivision b. of this subparagraph,~~
3 ~~the council shall have access to the applications of all~~
4 ~~persons certified for the position. The principal shall be~~
5 ~~elected on a majority vote of the membership of the council.~~
6 ~~No principal who has been previously removed from a~~
7 ~~position in the district for cause may be considered for~~
8 ~~appointment as principal. The school council shall receive~~
9 ~~training in recruitment and interviewing techniques prior to~~
10 ~~carrying out the process of selecting a principal. The council~~
11 ~~shall select the trainer to deliver the training;~~

12 b. ~~An alternative principal selection process may be used by the~~
13 ~~school council as follows:~~

14 i. ~~Prior to a meeting called to select a principal, all school~~
15 ~~council members shall receive informational materials~~
16 ~~regarding Kentucky open records and open meetings laws~~
17 ~~and sign a nondisclosure agreement forbidding the sharing of~~
18 ~~information shared and discussions held in the closed~~
19 ~~session;~~

20 ii. ~~The superintendent shall convene the school council and~~
21 ~~move into closed session as provided in KRS 61.810(1)(f) to~~
22 ~~confidentially recommend a candidate;~~

23 iii. ~~The council shall have the option to interview the~~
24 ~~recommended candidate while in closed session; and~~

25 iv. ~~After any discussion, at the conclusion of the closed session,~~
26 ~~the council shall decide, in a public meeting by majority vote~~
27 ~~of the membership of the council, whether to accept or reject~~

1 the recommended principal candidate;

2 ~~c. If the recommended candidate is selected, and the~~
3 ~~recommended candidate accepts the offer, the name of the~~
4 ~~candidate shall be made public during the next meeting in~~
5 ~~open session;~~

6 ~~d. i. If the recommended candidate is not accepted by the~~
7 ~~school council under subdivision b. of this subparagraph,~~
8 ~~then the process set forth in subdivision a. of this~~
9 ~~subparagraph shall apply.~~

10 ~~ii. The confidentially recommended candidate's name and the~~
11 ~~discussions of the closed session shall remain confidential~~
12 ~~under KRS 61.810(1)(f), and any documents used or~~
13 ~~generated during the closed meeting shall not be subject to an~~
14 ~~open records request as provided in KRS 61.878(1)(i) and (j).~~

15 ~~iii. A recommended candidate who believes a violation of this~~
16 ~~subdivision has occurred may file a written complaint with~~
17 ~~the Kentucky Board of Education.~~

18 ~~iv. A school council member who is found to have disclosed~~
19 ~~confidential information regarding the proceeding of the~~
20 ~~closed session shall be subject to removal from the school~~
21 ~~council by the Kentucky Board of Education under~~
22 ~~subsection (9)(e) of this section;]~~

23 3. Personnel decisions made at the school level under the authority of
24 subparagraph~~[subparagraphs] 1.[and 2.]~~ of this paragraph shall be
25 binding on the superintendent who completes the hiring process;

26 4. Applicants subsequently employed shall provide evidence that they are
27 certified prior to assuming the duties of a position in accordance with

1 KRS 161.020; and

2 5. Notwithstanding other provisions of this paragraph, if the applicant is
3 the spouse of the superintendent and the applicant meets the service
4 requirements of KRS 160.380(2)(e), the applicant shall only be
5 employed upon the recommendation of the principal and the approval of
6 a majority vote of the school council;

7 (i) The school council shall adopt a policy, consistent with local board policy, to
8 be implemented by the principal in the following additional areas:

- 9 1. Determination of curriculum, including needs assessment, curriculum
10 development and responsibilities under KRS 158.6453(19);
- 11 2. Assignment of all instructional and noninstructional staff time;
- 12 3. Assignment of students to classes and programs within the school;
- 13 4. Determination of the schedule of the school day and week, subject to the
14 beginning and ending times of the school day and school calendar year
15 as established by the local board;
- 16 5. Determination of use of school space during the school day related to
17 improving classroom teaching and learning;
- 18 6. Planning and resolution of issues regarding instructional practices;
- 19 7. Selection and implementation of discipline and classroom management
20 techniques as a part of a comprehensive school safety plan, including
21 responsibilities of the student, parent, teacher, counselor, and principal;
- 22 8. Selection of extracurricular programs and determination of policies
23 relating to student participation based on academic qualifications and
24 attendance requirements, program evaluation, and supervision;
- 25 9. Adoption of an emergency plan as required in KRS 158.162;
- 26 10. Procedures, consistent with local school board policy, for determining
27 alignment with state standards, technology utilization, and program

1 appraisal; and

2 11. Procedures to assist the council with consultation in the selection of
3 personnel by the principal, superintendent, or superintendent's
4 designee as applicable, including but not limited to meetings, timelines,
5 interviews, review of written applications, and review of references.
6 Procedures shall address situations in which members of the council are
7 not available for consultation; and

8 (j) 1. Each school council shall annually review data as shown on state and
9 local student assessments required under KRS 158.6453. The data shall
10 include but not be limited to information on performance levels of all
11 students tested, and information on the performance of students
12 disaggregated by race, gender, disability, and participation in the federal
13 free and reduced price lunch program.

14 2. After completing the review of data, each school council, with the
15 involvement of parents, faculty, and staff, shall develop and adopt a plan
16 to ensure that each student makes progress toward meeting the goals set
17 forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and
18 submit the plan to the superintendent and local board of education for
19 review as described in KRS 160.340.

20 3. The Kentucky Department of Education shall provide each school
21 council the data needed to complete the review required by this
22 paragraph no later than October 1 of each year.

23 4. If a school does not have a council, the review shall be completed by the
24 principal with the involvement of parents, faculty, and staff.

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

27 (a) School budget and administration, including: discretionary funds; activity and

- 1 other school funds; funds for maintenance, supplies, and equipment; and
2 procedures for authorizing reimbursement for training and other expenses;
- 3 (b) Assessment of individual student progress, including testing and reporting of
4 student progress to students, parents, the school district, the community, and
5 the state;
- 6 (c) School improvement plans, including the form and function of strategic
7 planning and its relationship to district planning, as well as the school safety
8 plan and requests for funding from the Center for School Safety under KRS
9 158.446;
- 10 (d) Professional development plans developed pursuant to KRS 156.095;
- 11 (e) Parent, citizen, and community participation including the relationship of the
12 council with other groups;
- 13 (f) Cooperation and collaboration within the district, with other districts, and with
14 other public and private agencies;
- 15 (g) Requirements for waiver of district policies;
- 16 (h) Requirements for record keeping by the school council;~~and~~
- 17 (i) A process for appealing a decision made by a school council; and
- 18 (j) A process for the local board to review, either upon request or upon its own
19 motion, a decision, policy, or action of a school council. Following this
20 review, a local board shall have the authority to overturn a decision, policy,
21 or action of a school council that it determines to be:
- 22 1. Inconsistent with local board policy; or
23 2. A hindrance to the efficient operation of the district as a whole.
- 24 (4) In addition to the authority granted to the school council in this section, the local
25 board may grant to the school council any other authority permitted by law. The
26 board shall make available liability insurance coverage for the protection of all
27 members of the school council from liability arising in the course of pursuing their

1 duties as members of the council.

2 (5) All schools shall implement school-based decision making in accordance with this
3 section and with the policy adopted by the local board pursuant to this section.
4 Upon favorable vote of a majority of the faculty at the school and a majority of at
5 least twenty-five (25) voting parents of students enrolled in the school, a school
6 meeting its goal as determined by the Department of Education pursuant to KRS
7 158.6455 may apply to the Kentucky Board of Education for exemption from the
8 requirement to implement school-based decision making, and the state board shall
9 grant the exemption. The voting by the parents on the matter of exemption from
10 implementing school-based decision making shall be in an election conducted by
11 the parent and teacher organization of the school or, if none exists, the largest
12 organization of parents formed for this purpose. Notwithstanding the provisions of
13 this section, a local school district shall not be required to implement school-based
14 decision making if the local school district contains only one (1) school.

15 (6) The Department of Education shall provide professional development activities to
16 assist schools in implementing school-based decision making. School council
17 members elected for the first time shall complete a minimum of six (6) clock hours
18 of training in the process of school-based decision making, no later than thirty (30)
19 days after the beginning of the service year for which they are elected to serve.
20 School council members who have served on a school council at least one (1) year
21 shall complete a minimum of three (3) clock hours of training in the process of
22 school-based decision making no later than one hundred twenty (120) days after the
23 beginning of the service year for which they are elected to serve. Experienced
24 members may participate in the training for new members to fulfill their training
25 requirement. School council training required under this subsection shall be
26 conducted by trainers endorsed by the Department of Education. By November 1 of
27 each year, the principal through the local superintendent shall forward to the

1 Department of Education the names and addresses of each council member and
2 verify that the required training has been completed. School council members
3 elected to fill a vacancy shall complete the applicable training within thirty (30)
4 days of their election.

5 (7) A school that chooses to have school-based decision making but would like to be
6 exempt from the administrative structure set forth by this section may develop a
7 model for implementing school-based decision making, including but not limited to
8 a description of the membership, organization, duties, and responsibilities of a
9 school council. The school shall submit the model through the local board of
10 education to the commissioner of education and the Kentucky Board of Education,
11 which shall have final authority for approval. The application for approval of the
12 model shall show evidence that it has been developed by representatives of the
13 parents, students, certified personnel, and the administrators of the school and that
14 two-thirds (2/3) of the faculty have agreed to the model.

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

25 (9) (a) Except as otherwise permitted under subsection (3)(j) of this section, no
26 board member, superintendent~~[-of schools]~~, district employee, or member of a
27 school council shall intentionally engage in a pattern of practice which is

1 detrimental to the successful implementation of or circumvents the intent of
2 school-based decision making to allow the professional staff members of a
3 school and parents to be involved in the decision making process in working
4 toward meeting the educational goals established in KRS 158.645 and
5 158.6451 or to make decisions in areas of policy assigned to a school council
6 pursuant to paragraph (i) of subsection (2) of this section.

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

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

14 (d) If the state board determines a violation has occurred, the party shall be
15 subject to reprimand. A second violation of this subsection may be grounds
16 for removing a superintendent, a member of a school council, or school board
17 member from office or grounds for dismissal of an employee for misconduct
18 in office or willful neglect of duty.

19 ~~[(e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the~~
20 ~~state board determines a violation of the confidentiality requirements set forth~~
21 ~~in subsection (2)(h)2. of this section by a school council member has~~
22 ~~occurred, the state board shall remove the member from the school council,~~
23 ~~and the member shall be permanently prohibited from serving on any school~~
24 ~~council in the district.]~~

25 (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or
26 maintain a school-based decision making council and the powers, duties, and
27 authority granted to a school council;

- 1 (a) Shall be transferred to the superintendent if a school is identified for
 2 comprehensive support and improvement under KRS 160.346; or
 3 (b) May be transferred to the principal or superintendent~~[rescinded]~~ or the
 4 school council's role may be made advisory if the~~[commissioner of education~~
 5 ~~or the]~~ Kentucky Board of Education approves a written request of the local
 6 board seeking either of those actions. The request shall explain how the
 7 action sought is likely to enhance student achievement and assist the school
 8 in meeting the goals established by KRS 158.645, KRS 158.6451, and
 9 district goals established by the board. No sooner than four (4) years
 10 following the approval of a request under this paragraph, a school's right to
 11 establish a council or a school's right for the council to assume the full
 12 authority granted under this section may be restored by the local
 13 board~~[takes action under KRS 160.346].~~

- 14 (11) Each school council of a school containing grades K-5 or any combination thereof,
 15 or if there is no school council, the principal, shall develop and implement a
 16 wellness policy that includes moderate to vigorous physical activity each day and
 17 encourages healthy choices among students. The policy may permit physical activity
 18 to be considered part of the instructional day, not to exceed thirty (30) minutes per
 19 day, or one hundred and fifty (150) minutes per week. Each school council, or if
 20 there is no school council, the principal, shall adopt an assessment tool to determine
 21 each child's level of physical activity on an annual basis. The council or principal
 22 may utilize an existing assessment program. The Kentucky Department of
 23 Education shall make available a list of available resources to carry out the
 24 provisions of this subsection. The department shall report to the Legislative
 25 Research Commission no later than November 1 of each year on how the schools
 26 are providing physical activity under this subsection and on the types of physical
 27 activity being provided. The policy developed by the school council or principal

1 shall comply with provisions required by federal law, state law, or local board
2 policy.

3 ~~[(12) Discretionary authority exercised under subsection (2)(h)2.b. of this section shall~~
4 ~~not violate provisions of any employer-employee bargained contract existing~~
5 ~~between the district and its employees.]~~