

1 AN ACT relating to school policies.

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

3 ➔Section 1. KRS 160.380 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Alternative education program" means a program that exists to meet the  
6 needs of students that cannot be addressed in a traditional classroom setting  
7 but through the assignment of students to alternative classrooms, centers, or  
8 campuses that are designed to remediate academic performance, improve  
9 behavior, or provide an enhanced learning experience. Alternative education  
10 programs do not include career or technical centers or departments;

11 (b) **"Clear CA/N check" means a letter from the Cabinet for Health and**  
12 **Family Services indicating that there are no substantiated findings of child**  
13 **abuse or neglect relating to a specific individual**~~["Contractor" means an adult~~  
14 ~~who is permitted access to school grounds pursuant to a current or prospective~~  
15 ~~contractual agreement with the school, school board, school district, or~~  
16 ~~school-affiliated entity, at times when students are present. The term~~  
17 ~~"contractor" includes an employee of a contractor];~~

18 (c) "Relative" means father, mother, brother, sister, husband, wife, son and  
19 daughter; and

20 (d) "Vacancy" means any certified position opening created by the resignation,  
21 dismissal, nonrenewal of contract, transfer, or death of a certified staff  
22 member of a local school district, or a new position created in a local school  
23 district for which certification is required. However, if an employer-employee  
24 bargained contract contains procedures for filling certified position openings  
25 created by the resignation, dismissal, nonrenewal of contract, transfer, or death  
26 of a certified staff member, or creation of a new position for which  
27 certification is required, a vacancy shall not exist, unless certified positions

1 remain open after compliance with those procedures.

2 (2) Except as provided in KRS 160.346, *the school district personnel actions*  
3 *identified in this section shall be carried out as follows:*

4 (a) All appointments, promotions, and transfers of principals, supervisors,  
5 teachers, and other public school employees shall be made only by the  
6 superintendent of schools, who shall notify the board of the action taken. All  
7 employees of the local district shall have the qualifications prescribed by law  
8 and by the administrative regulations of the Kentucky Board of Education and  
9 of the employing board. Supervisors, principals, teachers, and other  
10 employees may be appointed by the superintendent for any school year at any  
11 time after February 1 preceding the beginning of the school year. No  
12 superintendent of schools shall appoint or transfer himself or herself to  
13 another position within the school district;

14 (b) When a vacancy occurs in a local school district, the superintendent shall  
15 notify the chief state school officer fifteen (15) days before the position shall  
16 be filled. The chief state school officer shall keep a registry of local district  
17 vacancies which shall be made available to the public. The local school  
18 district shall post position openings in the local board office for public  
19 viewing;

20 (c) When a vacancy needs to be filled in less than fifteen (15) days' time to  
21 prevent disruption of necessary instructional or support services of the school  
22 district, the superintendent may seek a waiver from the chief state school  
23 officer. If the waiver is approved, the appointment shall not be made until the  
24 person recommended for the position has been approved by the chief state  
25 school officer. The chief state school officer shall respond to a district's  
26 request for waiver or for approval of an appointment within two (2) working  
27 days; *and*

1 (d) When a vacancy occurs in a local district, the superintendent shall conduct a  
2 search to locate minority teachers to be considered for the position. The  
3 superintendent shall, pursuant to administrative regulations of the Kentucky  
4 Board of Education, report annually the district's recruitment process and the  
5 activities used to increase the percentage of minority teachers in the district.;

6 **(3) Restrictions on employment of relatives shall be as follows:**

7 ~~(a)(e)~~ No relative of a superintendent of schools shall be an employee of the  
8 school district. However, this shall not apply to a relative who is a classified  
9 or certified employee of the school district for at least thirty-six (36) months  
10 prior to the superintendent assuming office, ~~or prior to marrying a relative of~~  
11 ~~the superintendent,~~ and who is qualified for the position the employee holds.  
12 A superintendent's spouse who has previously been employed in a school  
13 system may be an employee of the school district. A superintendent's spouse  
14 who is employed under this provision shall not hold a position in which the  
15 spouse supervises certified or classified employees. A superintendent's spouse  
16 may supervise teacher aides and student teachers. However, the  
17 superintendent shall not promote a relative who continues employment under  
18 an exception of this subsection;

19 ~~(b)(f)~~ No superintendent shall employ a relative of a school board member of  
20 the district, ~~unless on July 13, 1990, the board member's relative is an~~  
21 ~~employee of the district, the board member is holding office, and the relative~~  
22 ~~was not initially hired by the district during the tenure of the board member. A~~  
23 ~~relative employed in 1989-90 and initially hired during the tenure of a board~~  
24 ~~member serving on July 13, 1990, may continue to be employed during the~~  
25 ~~remainder of the board member's term. However, the superintendent shall not~~  
26 ~~promote any relative of a school board member who continues employment~~  
27 ~~under the exception of this subsection];~~

1       ~~(c)[(g)]—1.~~ No principal's relative shall be employed in the principal's school~~;~~  
 2       except a relative who is not the principal's spouse and who was employed in  
 3       the principal's school during the 1989-90 school year.

4       ~~2.—No spouse of a principal shall be employed in the principal's school,~~  
 5       except:

6       a.—A principal's spouse who was employed in the principal's school  
 7       during the 1989-90 school year for whom there is no position for  
 8       which the spouse is certified to fill in another school operated in  
 9       the district; or

10      b.—A principal's spouse who was employed in the 1989-90 school year  
 11      and is in a school district containing no more than one (1)  
 12      elementary school, one (1) middle school, and one (1) high school.

13      ~~3.—A principal's spouse who is employed in the principal's school shall be~~  
 14      ~~evaluated by a school administrator other than the principal.~~

15      ~~4.—The provisions of KRS 161.760 shall not apply to any transfer made in~~  
 16      ~~order to comply with the provisions of this paragraph]; and~~

17      ~~(d)[(h)]~~ A relative that is ineligible for employment under paragraph ~~(a), (b), or~~  
 18      ~~(c)[(e), (f), or (g)]~~ of this subsection may be employed as a substitute for a  
 19      certified or classified employee if the relative is not:

- 20      1. A regular full-time or part-time employee of the district;
- 21      2. Accruing continuing contract status or any other right to continuous  
 22      employment;
- 23      3. Receiving fringe benefits other than those provided other substitutes or
- 24      4. Receiving preference in employment or assignment over other  
 25      substitutes.

26      ~~(4)[(3)]~~ No superintendent shall assign a certified or classified staff person to an  
 27      alternative education program as part of any disciplinary action taken pursuant to

1 KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to  
2 the local district evaluation plan.

3 ~~(5)~~~~(4)~~ No superintendent shall ***initially*** employ in any position in the district any  
4 person who is a violent offender or has been convicted of a sex crime as defined by  
5 KRS 17.165 which is classified as a felony or persons with a substantiated finding  
6 of child abuse or neglect in records maintained by the Cabinet for Health and  
7 Family Services. The superintendent may employ, at his discretion, except at a  
8 Kentucky Educational Collaborative for State Agency Children program, persons  
9 convicted of sex crimes classified as a misdemeanor.

10 ~~(6)~~~~(5)~~ **Requirements for background checks shall be as follows:**

11 (a) A superintendent shall require **the following individuals to submit to** a  
12 national and state criminal background check **by the Department of Kentucky**  
13 **State Police and the Federal Bureau of Investigation** and ~~have~~~~require~~ a  
14 **clear CA/N check**~~[letter]~~, provided by the individual~~[- from the Cabinet for~~  
15 ~~Health and Family Services indicating the individual is clear to hire based on~~  
16 ~~no findings of substantiated child abuse or neglect found through a~~  
17 ~~background check of child abuse and neglect records maintained by the~~  
18 ~~Cabinet for Health and Family Services on all new certified hires in the school~~  
19 ~~district and student teachers assigned within the district]~~;

20 **1. Each new certified or classified hire;**

21 **2. A nonfaculty coach or nonfaculty assistant as defined under KRS**  
22 **161.185;**

23 **3. A student teacher;**

24 **4. A school-based decision making council parent member; and**

25 **5. Any adult who is permitted access to school grounds on a regularly**  
26 **scheduled and continuing basis pursuant to a written agreement for**  
27 **the purpose of providing services directly to a student or students as**

1 part of a school-sponsored program or activity.

2 (b) 1. The requirements of paragraph (a) of this subsection shall not apply

3 to~~[Excluded are]:~~

4 a. Classified and certified individuals employed by the school  
5 district prior to the effective date of this Act; or

6 b. Certified individuals who were employed in another certified  
7 position in a Kentucky school district within six (6) months of the  
8 date of hire and who had previously submitted to a national and  
9 state criminal background check and who have a clear CA/N  
10 check~~[letter, provided by the individual, from the Cabinet for~~  
11 ~~Health and Family Services stating the employee is clear to hire~~  
12 ~~based on no findings of substantiated child abuse or neglect found~~  
13 ~~through a background check of child abuse and neglect records~~  
14 ~~maintained by the Cabinet for Health and Family Services]~~ for the  
15 previous employment.

16 ~~[(b) The superintendent shall require that each new certified hire and student~~  
17 ~~teacher, as set forth in paragraph (a) of this subsection, submit to a national~~  
18 ~~and state criminal history background check by the Department of Kentucky~~  
19 ~~State Police and the Federal Bureau of Investigation and have a letter,~~  
20 ~~provided by the individual, from the Cabinet for Health and Family Services~~  
21 ~~stating the employee is clear to hire based on no findings of substantiated~~  
22 ~~child abuse or neglect found through a background check of child abuse and~~  
23 ~~neglect records maintained by the Cabinet for Health and Family Services.~~

24 ~~(c) All fingerprints requested under this section shall be on an applicant~~  
25 ~~fingerprint card provided by the Department of Kentucky State Police. The~~  
26 ~~fingerprint cards shall be forwarded to the Federal Bureau of Investigation~~  
27 ~~from the Department of Kentucky State Police after a state criminal~~

1 background check is conducted. The results of the state and federal criminal  
2 background check shall be sent to the hiring superintendent. Any fee charged  
3 by the Department of Kentucky State Police, the Federal Bureau of  
4 Investigation, and the Cabinet for Health and Family Services shall be an  
5 amount no greater than the actual cost of processing the request and  
6 conducting the search.]

7 2.[(d)] The Education Professional Standards Board may promulgate  
8 administrative regulations to impose additional qualifications to meet  
9 the requirements of Public Law 92-544.

10 ~~[(6) (a) A superintendent shall require a national and state criminal background check  
11 and require a letter, provided by the individual, from the Cabinet for Health  
12 and Family Services stating the employee is clear to hire based on no findings  
13 of substantiated child abuse or neglect found through a background check of  
14 child abuse and neglect records maintained by the Cabinet for Health and  
15 Family Services on all classified initial hires.~~

16 ~~(b) The superintendent shall require that each classified initial hire submit to a  
17 national and state criminal history background check by the Department of  
18 Kentucky State Police and require a letter, provided by the individual, from  
19 the Cabinet for Health and Family Services stating the employee is clear to  
20 hire based on no findings of substantiated child abuse or neglect found  
21 through a background check of child abuse and neglect records maintained by  
22 the Cabinet for Health and Family Services.~~

23 ~~(c) Any request for any criminal background records under this section shall be  
24 on an applicant fingerprint card provided by the Department of Kentucky  
25 State Police. The results of the state criminal background check and the results  
26 of the national criminal history background check, if requested under  
27 paragraph (b) of this subsection, shall be sent to the hiring superintendent.~~

1 Any fee charged by the Department of Kentucky State Police and the Cabinet  
 2 for Health and Family Services shall be an amount no greater than the actual  
 3 cost of processing the request and conducting the search.]

4 ~~(c)~~<sup>(7)</sup> ~~— (a)~~ *A parent member may serve prior to the receipt of the criminal*  
 5 *history background check and CA/N letter required by paragraph (a) of this*  
 6 *subsection but shall be removed from the council on receipt by the school*  
 7 *district of a report documenting a record of abuse or neglect, or a sex crime*  
 8 *or criminal offense against a victim who is a minor as defined in KRS*  
 9 *17.500, or as a violent offender as defined in KRS 17.165, and no further*  
 10 *procedures shall be required.*

11 (d) ~~A~~<sup>[The]</sup> superintendent ~~shall require a contractor who works on school~~  
 12 ~~premises during school hours and] may require~~<sup>[ a contractor who does not</sup>  
 13 ~~have contact with students,] a volunteer~~<sup>[,] or a visitor to submit to a national</sup>  
 14 and state criminal history background check by the Department of Kentucky  
 15 State Police and the Federal Bureau of Investigation and have a *clear CA/N*  
 16 *check*<sup>[letter]</sup>, provided by the individual~~, from the Cabinet for Health and~~  
 17 ~~Family Services stating the employee is clear to hire based on no findings of~~  
 18 ~~substantiated child abuse or neglect found through a background check of~~  
 19 ~~child abuse and neglect records maintained by the Cabinet for Health and~~  
 20 ~~Family Services].~~

21 ~~[(b) Any request for records under this section shall be on an applicant fingerprint card~~  
 22 ~~provided by the Department of Kentucky State Police. If requested, the results~~  
 23 ~~of the state criminal background check and the results of the national criminal~~  
 24 ~~history background check and a letter, provided by the individual, from the~~  
 25 ~~Cabinet for Health and Family Services stating the employee is clear to hire~~  
 26 ~~based on no findings of substantiated child abuse or neglect found through the~~  
 27 ~~results of a background check of child abuse and neglect records maintained~~



1           ~~by the Cabinet for Health and Family Services shall be sent to the hiring~~  
2           ~~superintendent. Any fee charged by the Department of Kentucky State Police~~  
3           ~~and the Cabinet for Health and Family Services shall be an amount no greater~~  
4           ~~than the actual cost of processing the request and conducting the search.]~~

5    ~~(Z)~~~~(8)~~ (a)   ~~If [a school term has begun and] a certified or classified position remains~~  
6           ~~unfilled after July 31 or if a vacancy occurs during a school term, a~~  
7           ~~superintendent may employ an individual, who will have supervisory or~~  
8           ~~disciplinary authority over minors, on probationary status pending receipt of~~  
9           ~~the criminal history background check and [have] a clear CA/N check [letter],~~  
10          ~~provided by the individual, from the Cabinet for Health and Family Services~~  
11          ~~stating the employee is clear to hire based on no findings of substantiated~~  
12          ~~child abuse or neglect found through a background check of child abuse and~~  
13          ~~neglect records maintained by the Cabinet for Health and Family Services].~~  
14          ~~Application for the criminal record and a request for a clear CA/N check [~~  
15          ~~letter, provided by the individual, from the Cabinet for Health and Family~~  
16          ~~Services stating the employee is clear to hire based on no findings of~~  
17          ~~substantiated child abuse or neglect found through a background check of~~  
18          ~~child abuse and neglect records maintained by the Cabinet for Health and~~  
19          ~~Family Services] of a probationary employee shall be made no later than the~~  
20          ~~date probationary employment begins.~~

21          (b)   Employment shall be contingent on the receipt of the criminal history  
22                background check documenting that the probationary employee has no record  
23                of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt  
24                of a letter, provided by the individual, from the Cabinet for Health and Family  
25                Services stating the employee is clear to hire based on no findings of  
26                substantiated child abuse or neglect found through a background check of  
27                child abuse and neglect records maintained by the Cabinet for Health and

1 Family Services.

2 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,  
3 probationary employment under this section shall terminate on receipt by the  
4 school district of a criminal history background check documenting a record  
5 of a sex crime or as a violent offender as defined in KRS 17.165 and no  
6 further procedures shall be required.

7 (d) The provisions of KRS 161.790 shall apply to terminate employment of a  
8 certified employee on the basis of a criminal record other than a record of a  
9 sex crime or as a violent offender as defined in KRS 17.165, or on the basis  
10 of a CA/N check showing substantiation of child abuse or neglect.

11 ~~(8)~~~~(9)~~ (a) All fingerprints requested under this section shall be on an applicant  
12 fingerprint card provided by the Department of Kentucky State Police. The  
13 fingerprint cards shall be forwarded to the Federal Bureau of Investigation  
14 from the Department of Kentucky State Police after a state criminal  
15 background check is conducted. The results of the state and federal  
16 criminal background check shall be sent to the hiring superintendent. Any  
17 fee charged by the Department of Kentucky State Police, the Federal  
18 Bureau of Investigation, and the Cabinet for Health and Family Services  
19 shall be an amount no greater than the actual cost of processing the request  
20 and conducting the search.

~~Each application or renewal form, provided by the  
21 employer to an applicant for a classified position, shall conspicuously state the  
22 following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW  
23 REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK  
24 AND HAVE A LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE  
25 CABINET FOR HEALTH AND FAMILY SERVICES STATING THE  
26 EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF  
27 SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A~~

1           ~~BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS~~  
 2           ~~MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY~~  
 3           ~~SERVICES AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN~~  
 4           ~~CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY~~  
 5           ~~BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF~~  
 6           ~~EMPLOYMENT].["]~~

7           (b) Each application or renewal form, provided by the employer to an applicant  
 8           for a certified *or classified* position, shall conspicuously state the following:  
 9           "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A  
 10           NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND  
 11           CHECK AND~~[HAVE]~~ A LETTER, PROVIDED BY THE INDIVIDUAL,  
 12           FROM THE CABINET FOR HEALTH AND FAMILY SERVICES  
 13           STATING THE APPLICANT HAS~~[EMPLOYEE IS CLEAR TO HIRE~~  
 14           ~~BASED ON]~~ NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR  
 15           NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD  
 16           ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET  
 17           FOR HEALTH AND FAMILY SERVICES~~[AS A CONDITION OF~~  
 18           ~~EMPLOYMENT]."~~

19           (c) Each application form for a district position shall require the applicant to:  
 20           1. Identify the states in which he or she has maintained residency,  
 21           including the dates of residency; and  
 22           2. Provide picture identification.

23           ~~[(10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a~~  
 24           ~~nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.]~~

25           ~~[(11) (a) A school-based decision-making council parent member, as defined under~~  
 26           ~~KRS 160.345, shall submit to a state and national fingerprint-supported~~  
 27           ~~criminal history background check by the Department of Kentucky State~~

1           ~~Police and the Federal Bureau of Investigation and have a letter, provided by~~  
2           ~~the individual, from the Cabinet for Health and Family Services stating the~~  
3           ~~employee is clear to hire based on no findings of substantiated child abuse or~~  
4           ~~neglect found through a background check of child abuse and neglect records~~  
5           ~~maintained by the Cabinet for Health and Family Services.~~

6           ~~(b) The results of the state criminal history background check and the results of~~  
7           ~~the national criminal history background check, if requested, and a letter,~~  
8           ~~provided by the individual, from the Cabinet for Health and Family Services~~  
9           ~~stating the employee is clear to hire based on no findings of substantiated~~  
10           ~~child abuse or neglect found through the results of a background check of~~  
11           ~~child abuse and neglect records maintained by the Cabinet for Health and~~  
12           ~~Family Services shall be sent to the district superintendent. Any fee charged~~  
13           ~~by the Department of Kentucky State Police and the Cabinet for Health and~~  
14           ~~Family Services shall be an amount no greater than the actual cost of~~  
15           ~~processing the request and conducting the search. A parent member may serve~~  
16           ~~prior to the receipt of the criminal history background check report but shall~~  
17           ~~be removed from the council on receipt by the school district of a report~~  
18           ~~documenting a record of a sex crime or criminal offense against a victim who~~  
19           ~~is a minor as defined in KRS 17.500 or as a violent offender as defined in~~  
20           ~~KRS 17.165, and no further procedures shall be required.]~~

21           ~~(9)(12)~~ Notwithstanding any provision of the Kentucky Revised Statutes to the  
22           contrary, when an employee of the school district is charged with any offense which  
23           is classified as a felony, the superintendent may transfer the employee to a second  
24           position until such time as the employee is found not guilty, the charges are  
25           dismissed, the employee is terminated, or the superintendent determines that further  
26           personnel action is not required. The employee shall continue to be paid at the same  
27           rate of pay he or she received prior to the transfer. If an employee is charged with an

1 offense outside of the Commonwealth, this provision may also be applied if the  
 2 charge would have been treated as a felony if committed within the Commonwealth.  
 3 Transfers shall be made to prevent disruption of the educational process and district  
 4 operations and in the interest of students and staff and shall not be construed as  
 5 evidence of misconduct.

6 ~~(10)~~~~(13)~~ Notwithstanding any law to the contrary, each certified and classified  
 7 employee of the school district shall notify the superintendent if he or she has been  
 8 found by the Cabinet for Health and Family Services to have abused or neglected a  
 9 child, and if he or she has waived the right to appeal a substantiated finding of child  
 10 abuse or neglect or if the substantiated incident was upheld upon appeal. Any  
 11 failure to report this finding shall result in the certified or classified employee being  
 12 subject to dismissal or termination.

13 ~~(11)~~~~(14)~~ The form for requesting a CA/N check~~letter, required by this section, stating~~  
 14 ~~an employee is clear to hire based on a background check of child abuse and neglect~~  
 15 ~~records maintained by the Cabinet for Health and Family Services}~~ shall be made  
 16 available on the Cabinet for Health and Family Services Web site.

17 ➔Section 2. KRS 160.151 is amended to read as follows:

- 18 (1) (a) 1. A private, parochial, or church school that has voluntarily been certified  
 19 by the Kentucky Board of Education in accordance with KRS  
 20 156.160(3) may require a national and state criminal background check  
 21 and require a clear CA/N check, as defined in Section 1 of this  
 22 Act~~, [letter from the Cabinet for Health and Family Services stating that~~  
 23 ~~the person has no findings of substantiated child abuse or neglect found~~  
 24 ~~through a background check of child abuse and neglect records~~  
 25 ~~maintained by the Cabinet for Health and Family Services}~~ on all new  
 26 certified hires in the school and student teachers assigned to the school  
 27 and may require a new national and state criminal background check and

1                   require a clear CA/N check~~[letter from the Cabinet for Health and~~  
2                   ~~Family Services stating that the person has no findings of substantiated~~  
3                   ~~child abuse or neglect found through a background check of child abuse~~  
4                   ~~and neglect records maintained by the Cabinet for Health and Family~~  
5                   ~~Services]~~ on each certified teacher once every five (5) years of  
6                   employment.

7                   2. Certified individuals who were employed in another certified position in  
8                   a Kentucky school within six (6) months of the date of the hire and who  
9                   had previously submitted to a national and state criminal background  
10                  check and were required to have~~[require]~~ a clear CA/N check~~[letter~~  
11                  ~~from the Cabinet for Health and Family Services stating that the person~~  
12                  ~~has no findings of substantiated child abuse or neglect found through a~~  
13                  ~~background check of child abuse and neglect records maintained by the~~  
14                  ~~Cabinet for Health and Family Services]~~ for previous employment may  
15                  be excluded from the initial national or state criminal background  
16                  checks.

17                  (b) The national criminal history background check shall be conducted by the  
18                  Federal Bureau of Investigation. The state criminal history background check  
19                  shall be conducted by the Department of Kentucky State Police or the  
20                  Administrative Office of the Courts.

21                  (c) All fingerprints requested under this section shall be on an applicant  
22                  fingerprint card provided by the Department of Kentucky State Police. The  
23                  fingerprint cards shall be forwarded to the Federal Bureau of Investigation by  
24                  the Department of Kentucky State Police after a state criminal background  
25                  check has been conducted. Any fee charged by the Department of Kentucky  
26                  State Police, the Administrative Office of the Courts, or the Federal Bureau of  
27                  Investigation shall be an amount no greater than the actual cost of processing

1 the request and conducting the search.

2 (2) If a school requires a criminal background check or requires a **clear CA/N**  
 3 **check**~~[letter from the Cabinet for Health and Family Services stating that the person~~  
 4 ~~has no findings of substantiated child abuse or neglect found through a background~~  
 5 ~~check of child abuse and neglect records maintained by the Cabinet for Health and~~  
 6 ~~Family Services]~~ for a new hire, the school shall conspicuously include the  
 7 following disclosure statement on each application or renewal form provided by the  
 8 employer to an applicant for a certified position: "STATE LAW AUTHORIZES  
 9 THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND  
 10 CHECK AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY  
 11 SERVICES STATING THE **APPLICANT**~~[EMPLOYEE]~~ IS CLEAR TO HIRE  
 12 BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR  
 13 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE  
 14 AND NEGLECT RECORDS AS A CONDITION OF EMPLOYMENT FOR THIS  
 15 TYPE OF POSITION."

16 (a) ~~[For purposes of this subsection, "contractor" means an adult who is permitted~~  
 17 ~~access to school grounds pursuant to a current or prospective contractual~~  
 18 ~~agreement with the school, school board, school district, or school-affiliated~~  
 19 ~~entity, at times when students are present. The term "contractor" includes an~~  
 20 ~~employee of a contractor.~~

21 (b) ~~1.~~ ~~]~~The school or school board may require **an adult who is permitted**  
 22 **access to school grounds on a regularly scheduled and continuing basis**  
 23 **pursuant to a written agreement for the purpose of providing services**  
 24 **directly to a student or students as part of a school-sponsored program or**  
 25 **activity**~~[a contractor who works on school premises during school hours and~~  
 26 ~~may require a contractor who does not have contact with students], a~~  
 27 volunteer, or a visitor to submit to a national criminal history check by the

1 Federal Bureau of Investigation and state criminal history background check  
 2 by the Department of Kentucky State Police or Administrative Office of the  
 3 Courts and require a clear CA/N check~~[letter from the Cabinet for Health and  
 4 Family Services stating that the person has no findings of substantiated child  
 5 abuse or neglect found through a background check of child abuse and neglect  
 6 records maintained by the Cabinet for Health and Family Services].~~

7 ~~(b)[2-]~~ Any request for records from the Department of Kentucky State Police  
 8 under this section shall be on an applicant fingerprint card provided by the  
 9 Department of Kentucky State Police if required. The results of the state  
 10 criminal background check and the results of the national criminal history  
 11 background check, if requested, shall be sent to the hiring superintendent. If a  
 12 background check of child abuse and neglect records is requested, the person  
 13 seeking employment shall provide to the hiring superintendent a clear CA/N  
 14 check~~[letter from the Cabinet for Health and Family Services stating the  
 15 person has no findings of substantiated child abuse or neglect found through a  
 16 background check of child abuse and neglect records maintained by the  
 17 Cabinet for Health and Family Services].~~

18 ~~(c)[3-]~~ Any fee charged by the Department of Kentucky State Police shall be an  
 19 amount no greater than the actual cost of processing the request and  
 20 conducting the search.

21 (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter  
 22 may choose not to employ any person who is a violent offender as defined by  
 23 KRS 17.165(2), has been convicted of a sex crime which is classified as a  
 24 felony as defined by KRS 17.165(1), or has committed a violent crime as  
 25 defined in KRS 17.165(3) or persons with a substantiated finding of child  
 26 abuse or neglect in records maintained by the Cabinet for Health and Family  
 27 Services. A nonpublic school may employ, at its discretion, persons convicted



1 of sex crimes classified as a misdemeanor.

2 (b) If a school term has begun and a certified position remains unfilled or if a  
3 vacancy occurs during a school term, a nonpublic school implementing this  
4 chapter may employ an individual who will have supervisory or disciplinary  
5 authority over minors on probationary status pending receipt of a criminal  
6 history background check or the receipt of a clear CA/N check~~[letter]~~,  
7 provided by the individual~~, from the Cabinet for Health and Family Services~~  
8 ~~stating that the person has no findings of substantiated child abuse or neglect~~  
9 ~~found through a background check of child abuse and neglect records~~  
10 ~~maintained by the Cabinet for Health and Family Services~~].

11 (c) Employment at a nonpublic school implementing this chapter may be  
12 contingent on the receipt of a criminal history background check documenting  
13 a record as a violent offender, of a sex crime, or of a violent crime as defined  
14 in KRS 17.165 or the receipt of a clear CA/N check~~[letter]~~, provided by the  
15 individual~~, from the Cabinet for Health and Family Services~~ stating that the  
16 ~~person has no findings of substantiated child abuse or neglect found through a~~  
17 ~~background check of child abuse and neglect records maintained by the~~  
18 ~~Cabinet for Health and Family Services~~].

19 (d) Nonpublic schools implementing this chapter may terminate probationary  
20 employment under this section upon receipt of a criminal history background  
21 check documenting a record as a violent offender, of a sex crime, or of a  
22 violent crime as defined in KRS 17.165 or the receipt of a clear CA/N  
23 check~~[letter]~~, provided by the individual~~, from the Cabinet for Health and~~  
24 ~~Family Services~~ stating that the person has no findings of substantiated child  
25 ~~abuse or neglect found through a background check of child abuse and neglect~~  
26 ~~records maintained by the Cabinet for Health and Family Services~~].

27 (4) The form for requesting a clear CA/N check~~[letter]~~, required by this section, stating

1 ~~an employee is clear to hire based on a background check of child abuse and neglect~~  
2 ~~records maintained by the Cabinet for Health and Family Services}~~ shall be made  
3 available on the Cabinet for Health and Family Services Web site.

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

5 (1) For the purpose of this section:

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

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

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

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

23 (d) "Parent" means:

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

27 (2) Each local board of education shall adopt a policy for implementing school-based

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

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

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

1 largest organization of parents formed for this purpose. A school  
2 council, once elected, may adopt a policy setting different terms of  
3 office for parent and teacher members subsequently elected. The  
4 principal shall be the chair of the school council.

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

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

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

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

- 1           2. If a school council establishes committees, it shall adopt a policy to  
2           facilitate the participation of interested persons, including, but not  
3           limited to, classified employees and parents. The policy shall include the  
4           number of committees, their jurisdiction, composition, and the process  
5           for membership selection;
- 6           (d) The school council and each of its committees shall determine the frequency  
7           of and agenda for their meetings. Matters relating to formation of school  
8           councils that are not provided for by this section shall be addressed by local  
9           board policy;
- 10          (e) The meetings of the school council shall be open to the public and all  
11          interested persons may attend. However, the exceptions to open meetings  
12          provided in KRS 61.810 shall apply;
- 13          (f) After receiving notification of the funds available for the school from the local  
14          board, the school council shall determine, within the parameters of the total  
15          available funds, the number of persons to be employed in each job  
16          classification at the school. The council may make personnel decisions on  
17          vacancies occurring after the school council is formed but shall not have the  
18          authority to recommend transfers or dismissals;
- 19          (g) The school council shall determine which textbooks, instructional materials,  
20          and student support services shall be provided in the school. Subject to  
21          available resources, the local board shall allocate an appropriation to each  
22          school that is adequate to meet the school's needs related to instructional  
23          materials and school-based student support services, as determined by the  
24          school council. The school council shall consult with the school media  
25          librarian on the maintenance of the school library media center, including the  
26          purchase of instructional materials, information technology, and equipment;
- 27          (h) Personnel decisions at the school level shall be as follows:

- 1           1. From a list of qualified applicants submitted by the local superintendent,  
2           the principal at the participating school shall select personnel to fill  
3           vacancies, after consultation with the school council, consistent with  
4           paragraph (i)11. of this subsection. The superintendent shall provide  
5           additional applicants to the principal upon request when qualified  
6           applicants are available. The superintendent may forward to the school  
7           council the names of qualified applicants who have pending certification  
8           from the Education Professional Standards Board based on recent  
9           completion of preparation requirements, out-of-state preparation, or  
10          alternative routes to certification pursuant to KRS 161.028 and 161.048.  
11          Requests for transfer shall conform to any employer-employee bargained  
12          contract which is in effect;
- 13          2. a. i. If the vacancy to be filled is the position of principal, the  
14                outgoing principal shall not serve on the council during the  
15                principal selection process. The superintendent or the  
16                superintendent's designee shall serve as the chair of the  
17                council for the purpose of the hiring process and shall have  
18                voting rights during the selection process.
- 19                ii. Except as provided in subdivision b. of this subparagraph,  
20                the council shall have access to the applications of all  
21                persons certified for the position. The principal shall be  
22                elected on a majority vote of the membership of the council.  
23                No principal who has been previously removed from a  
24                position in the district for cause may be considered for  
25                appointment as principal. The school council shall receive  
26                training in recruitment and interviewing techniques prior to  
27                carrying out the process of selecting a principal. The council

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

- 1 under KRS 61.810(1)(f), and any documents used or  
2 generated during the closed meeting shall not be subject to an  
3 open records request as provided in KRS 61.878(1)(i) and (j).
- 4 iii. A recommended candidate who believes a violation of this  
5 subdivision has occurred may file a written complaint with  
6 the Kentucky Board of Education.
- 7 iv. A school council member who is found to have disclosed  
8 confidential information regarding the proceeding of the  
9 closed session shall be subject to removal from the school  
10 council by the Kentucky Board of Education under  
11 subsection (9)(e) of this section;
- 12 3. 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 4. 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; and
- 18 5. 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)(2)(e)~~, 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;
- 23 (i) The school council shall adopt a policy to be implemented by the principal in  
24 the following additional areas:
- 25 1. Determination of curriculum, including needs assessment, curriculum  
26 development and responsibilities under KRS 158.6453(19);
- 27 2. Assignment of all instructional and noninstructional staff time;



- 1           3.   Assignment of students to classes and programs within the school;
- 2           4.   Determination of the schedule of the school day and week, subject to the
- 3                 beginning and ending times of the school day and school calendar year
- 4                 as established by the local board;
- 5           5.   Determination of use of school space during the school day related to
- 6                 improving classroom teaching and learning;
- 7           6.   Planning and resolution of issues regarding instructional practices;
- 8           7.   Selection and implementation of discipline and classroom management
- 9                 techniques as a part of a comprehensive school safety plan, including
- 10                responsibilities of the student, parent, teacher, counselor, and principal;
- 11           8.   Selection of extracurricular programs and determination of policies
- 12                 relating to student participation based on academic qualifications and
- 13                 attendance requirements, program evaluation, and supervision;
- 14           9.   Adoption of an emergency plan as required in KRS 158.162;
- 15           10. Procedures, consistent with local school board policy, for determining
- 16                 alignment with state standards, technology utilization, and program
- 17                 appraisal; and
- 18           11. Procedures to assist the council with consultation in the selection of
- 19                 personnel by the principal, including but not limited to meetings,
- 20                 timelines, interviews, review of written applications, and review of
- 21                 references. Procedures shall address situations in which members of the
- 22                 council are not available for consultation; and
- 23         (j) Each school council shall annually review data as shown on state and local
- 24                 student assessments required under KRS 158.6453. The data shall include but
- 25                 not be limited to information on performance levels of all students tested, and
- 26                 information on the performance of students disaggregated by race, gender,
- 27                 disability, and participation in the federal free and reduced price lunch

1 program. After completing the review of data, each school council, with the  
2 involvement of parents, faculty, and staff, shall develop and adopt a plan to  
3 ensure that each student makes progress toward meeting the goals set forth in  
4 KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan  
5 to the superintendent and local board of education for review as described in  
6 KRS 160.340. The Kentucky Department of Education shall provide each  
7 school council the data needed to complete the review required by this  
8 paragraph no later than October 1 of each year. If a school does not have a  
9 council, the review shall be completed by the principal with the involvement  
10 of parents, faculty, and staff.

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

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

16 (b) Assessment of individual student progress, including testing and reporting of  
17 student progress to students, parents, the school district, the community, and  
18 the state;

19 (c) School improvement plans, including the form and function of strategic  
20 planning and its relationship to district planning, as well as the school safety  
21 plan and requests for funding from the Center for School Safety under KRS  
22 158.446;

23 (d) Professional development plans developed pursuant to KRS 156.095;

24 (e) Parent, citizen, and community participation including the relationship of the  
25 council with other groups;

26 (f) Cooperation and collaboration within the district, with other districts, and with  
27 other public and private agencies;

- 1 (g) Requirements for waiver of district policies;
- 2 (h) Requirements for record keeping by the school council; and
- 3 (i) A process for appealing a decision made by a school council.
- 4 (4) In addition to the authority granted to the school council in this section, the local  
5 board may grant to the school council any other authority permitted by law. The  
6 board shall make available liability insurance coverage for the protection of all  
7 members of the school council from liability arising in the course of pursuing their  
8 duties as members of the council.
- 9 (5) All schools shall implement school-based decision making in accordance with this  
10 section and with the policy adopted by the local board pursuant to this section.  
11 Upon favorable vote of a majority of the faculty at the school and a majority of at  
12 least twenty-five (25) voting parents of students enrolled in the school, a school  
13 meeting its goal as determined by the Department of Education pursuant to KRS  
14 158.6455 may apply to the Kentucky Board of Education for exemption from the  
15 requirement to implement school-based decision making, and the state board shall  
16 grant the exemption. The voting by the parents on the matter of exemption from  
17 implementing school-based decision making shall be in an election conducted by  
18 the parent and teacher organization of the school or, if none exists, the largest  
19 organization of parents formed for this purpose. Notwithstanding the provisions of  
20 this section, a local school district shall not be required to implement school-based  
21 decision making if the local school district contains only one (1) school.
- 22 (6) The Department of Education shall provide professional development activities to  
23 assist schools in implementing school-based decision making. School council  
24 members elected for the first time shall complete a minimum of six (6) clock hours  
25 of training in the process of school-based decision making, no later than thirty (30)  
26 days after the beginning of the service year for which they are elected to serve.  
27 School council members who have served on a school council at least one (1) year

1 shall complete a minimum of three (3) clock hours of training in the process of  
2 school-based decision making no later than one hundred twenty (120) days after the  
3 beginning of the service year for which they are elected to serve. Experienced  
4 members may participate in the training for new members to fulfill their training  
5 requirement. School council training required under this subsection shall be  
6 conducted by trainers endorsed by the Department of Education. By November 1 of  
7 each year, the principal through the local superintendent shall forward to the  
8 Department of Education the names and addresses of each council member and  
9 verify that the required training has been completed. School council members  
10 elected to fill a vacancy shall complete the applicable training within thirty (30)  
11 days of their election.

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

22 (8) The Kentucky Board of Education, upon recommendation of the commissioner of  
23 education, shall adopt by administrative regulation a formula by which school  
24 district funds shall be allocated to each school council. Included in the school  
25 council formula shall be an allocation for professional development that is at least  
26 sixty-five percent (65%) of the district's per pupil state allocation for professional  
27 development for each student in average daily attendance in the school. The school

1 council shall plan professional development in compliance with requirements  
2 specified in KRS 156.095, except as provided in KRS 158.649. School councils of  
3 small schools shall be encouraged to work with other school councils to maximize  
4 professional development opportunities.

5 (9) (a) No board member, superintendent of schools, district employee, or member of  
6 a school council shall intentionally engage in a pattern of practice which is  
7 detrimental to the successful implementation of or circumvents the intent of  
8 school-based decision making to allow the professional staff members of a  
9 school and parents to be involved in the decision making process in working  
10 toward meeting the educational goals established in KRS 158.645 and  
11 158.6451 or to make decisions in areas of policy assigned to a school council  
12 pursuant to paragraph (i) of subsection (2) of this section.

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

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

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

25 (e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the  
26 state board determines a violation of the confidentiality requirements set forth  
27 in subsection (2)(h)2. of this section by a school council member has

1           occurred, the state board shall remove the member from the school council,  
2           and the member shall be permanently prohibited from serving on any school  
3           council in the district.

4 (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or  
5           maintain a school-based decision making council and the powers, duties, and  
6           authority granted to a school council may be rescinded or the school council's role  
7           may be advisory if the commissioner of education or the Kentucky Board of  
8           Education takes action under KRS 160.346.

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

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

1           ➔Section 4. KRS 160.990 is amended to read as follows:

- 2       (1) Any person who violates any of the provisions of KRS 160.250 shall be fined not  
3       more than two hundred dollars (\$200).
- 4       (2) Any person who violates any of the provisions of KRS 160.300 shall be fined not  
5       less than ten (\$10) nor more than fifty dollars (\$50).
- 6       (3) Any superintendent who violates any of the provisions of KRS 160.350 to 160.400  
7       shall be fined not less than one hundred (\$100) nor more than one thousand dollars  
8       (\$1,000) for each offense, and the violation is grounds for revocation of his  
9       certificate.
- 10      (4) Any person who violates any of the provisions of KRS 160.550 shall be fined not  
11      less than fifty (\$50) nor more than one hundred dollars (\$100), and shall be subject  
12      to removal from office.
- 13      (5) The Kentucky Board of Education may withhold funds allotted under KRS 157.350  
14      from any local district which violates ~~subsection (4) of~~ KRS 160.380(5) in the  
15      amount of one thousand dollars (\$1,000) per violation.
- 16      (6) In addition to penalties listed in this section, any local district which violates  
17      ~~subsection (4) of~~ KRS 160.380(5) shall be fined not less than five hundred dollars  
18      (\$500) nor more than one thousand dollars (\$1,000).

19           ➔Section 5. KRS 161.044 is amended to read as follows:

- 20      (1) The Kentucky Board of Education shall promulgate administrative regulations  
21      governing the qualifications of teachers' aides in the common schools. All teachers'  
22      aides working in kindergarten or with entry level students in primary classes and all  
23      instructional teachers' aides initially employed after July 1, 1986, except those with  
24      current teacher certification, shall have a high school diploma or a High School  
25      Equivalency Diploma.
- 26      (2) "Noninstructional teacher's aide" means an adult who works under the direct  
27      supervision of the teaching staff in performing noninstructional functions such as

1 clerical duties, lunch room duties, leading pupils in recreational activities, aiding the  
2 school librarian, preparing and organizing instructional material and equipment and  
3 monitoring children during a noninstructional period. Noninstructional teachers'  
4 aides employed on a full-time basis shall possess skills necessary to perform their  
5 duties and shall meet the requirements established in KRS 161.011 and  
6 160.380~~[(6)]~~.

7 (3) Within the administrative regulations established by the Kentucky Board of  
8 Education, a local district may employ teachers' aides in supplementary  
9 instructional and noninstructional activities with pupils. While engaged in an  
10 assignment as authorized under the administrative regulations, and as directed by  
11 the professional administrative and teaching staff, these personnel shall have the  
12 same legal status and protection as a certified teacher in the performance of the  
13 same or similar duties.

14 (4) Local districts shall give preference to applicants for the position of teacher's aide  
15 who have regular or emergency teacher certification.

16 (5) Local districts shall provide training of the instructional teacher's aide with the  
17 certified employee to whom he is assigned.