

**CHAPTER 88****(HB 322)**

AN ACT relating to school calendars and declaring an emergency.

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

➔Section 1. (1) (a) Whereas a large majority of counties have been identified by emergency declaration as federal disaster areas because of Tropical Depression Ike that occurred in September 2008, and the severe weather storm that occurred in January and February, 2009, that included ice, snow, and flooding, resulting in power failures, impassable roads, and communications failures; and whereas, it has been necessary to close schools for numerous days during these events; the commissioner of education, notwithstanding any other statute or administrative regulation to the contrary or any other provision of 2008 Ky. Acts ch. 127, may approve a request from a local board of education to waive the makeup of a maximum of ten (10) instructional days that a district missed because of these disasters.

(b) Notwithstanding any provision of this section to the contrary, the commissioner of education may approve a plan submitted by a local board of education that extends the instructional day by not less than thirty (30) minutes.

(2) The commissioner shall inform local boards of education of the procedures to be used when making a request under this section. After consideration of a district's request, the commissioner may approve the request.

(3) (a) A local board of education requesting relief under the provisions of this section shall submit an amended school calendar for the 2008-2009 school year to the commissioner of education no later than May 1, 2009. The amended calendar shall detail the makeup days to be used and shall include a request for consideration of disaster days as approved by the local board.

(b) The commissioner shall not approve a request for any disaster days unless the amended 2008-2009 school calendar shows that all makeup days included in the district's approved calendar for the 2008-2009 school year shall be used.

(c) The commissioner shall approve or deny a request for any disaster days within ten (10) calendar days of the original request.

(4) School district certified and classified personnel shall make up any days approved as disaster days by participating in instructional activities or professional development or by being assigned additional work responsibilities.

(5) (a) School district certified personnel employed full-time may use any unused emergency leave days, as identified in KRS 161.152, and any unused personal leave days, as identified in KRS 161.154, that may be provided by the district board of education to offset the make up days required in subsections (2) and (3) of this section if consistent with district policy.

(b) School district classified personnel employed full-time in the district may use any unused emergency leave days, as identified in KRS 161.152 that may be provided by the district board of education to offset the make up days required in subsections (2) and (3) of this section if consistent with district policy.

➔Section 2. The commissioner of education may approve a local board of education's request to exceed the five (5) instructional hours that do not have to be made up under 702 KAR 7:125, Section 3. when school days were shortened to address an emergency situation. The commissioner shall determine how much additional time does not have to be made up based on the extenuating circumstances in the district on case-by-case basis.

➔Section 3. Whereas school districts must adjust the school schedule for the remaining part of the school year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

➔Section 4. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

- (2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:
- (a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay for:
    - 1. Alternative programs for students who are at risk of dropping out of school before achieving a diploma; and
    - 2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;
  - (b) The number and types of exceptional children in the district as defined by KRS 157.200. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children; and
  - (c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.
- (3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.
- (4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:
- 1. Twenty-four (24) in primary grades (kindergarten through third grade);
  - 2. Twenty-eight (28) in grade four (4);
  - 3. Twenty-nine (29) in grades five (5) and six (6);
  - 4. Thirty-one (31) in grades seven (7) to twelve (12).
- (b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.
- (c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).
- (d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.
- (5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no

more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

- (6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.
- (7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.
- (8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.
- (9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.
- (10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).
- (11)
  - (a) Instructional salaries for vocational agriculture classes shall be for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Career and Technical Education in the Department of Education. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.
  - (b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.
- (12)
  - (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

- (b) Pursuant to administrative regulations of the Kentucky Board of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported annually on forms provided by the Department of Education.
- (13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.
- (14) Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.
- (15) *Notwithstanding any other statute or budget of the Commonwealth language to the contrary, time missed due to shortening days for emergencies may be made up by lengthening school days in the school calendar without any loss of funds under the program to support education excellence in Kentucky.*

**Signed by the Governor March 24, 2009.**