

CHAPTER 168**(HB 517)**

AN ACT relating to education and declaring an emergency.

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

➔Section 1. KRS 159.035 is amended to read as follows:

- (1) Notwithstanding the provisions of any other statute, any student in a public school who is enrolled in a properly organized 4-H club shall be considered present at school for all purposes when participating in regularly scheduled 4-H club educational activities, provided, the student is accompanied by or under the supervision of a county extension agent or the designated 4-H club leader for the 4-H club educational activity participated in.
- (2) Notwithstanding the provisions of any other statute, any student in a public school shall be considered present for all purposes for up to ten (10) days while attending basic training required by a branch of the United States Armed Forces.
- (3) ***Beginning with the 2021-2022 school year, notwithstanding the provisions of any other statute, any student enrolled in a public school shall not have his or her perfect attendance record negatively affected by participating in any of the page programs of the General Assembly.***
- (4) ***Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.***
- (5) Except as provided in paragraph (e) of this subsection, a public school principal shall give a student an excused absence of up to ten (10) school days to pursue an educational enhancement opportunity determined by the principal to be of significant educational value, including but not limited to participation in an educational foreign exchange program or an intensive instructional, experiential, or performance program in one (1) of the core curriculum subjects of English, science, mathematics, social studies, foreign language, and the arts.
 - (a) A student receiving an excused absence under this subsection shall have the opportunity to make up school work missed and shall not have his or her class grades adversely affected for lack of class attendance or class participation due to the excused absence.
 - (b) Educational enhancement opportunities under this subsection shall not include nonacademic extracurricular activities, but may include programs not sponsored by the school district.
 - (c) If a request for an excused absence to pursue an educational enhancement opportunity is denied by a school principal, a student may appeal the decision to the district superintendent, who shall make a determination whether to uphold or alter the decision of the principal. If a superintendent upholds a principal's denial, a student may appeal the decision to the local board of education, which shall make a final determination. A principal, superintendent, and local board of education shall make their determinations based on the provisions of this subsection and the district's school attendance policies adopted in accordance with KRS 158.070 and KRS 159.150.
 - (d) A student receiving an excused absence under the provisions of this subsection shall be considered present in school during the excused absence for the purposes of calculating average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky program.
 - (e) A student shall not be eligible to receive an excused absence under the provisions of this subsection for an absence during a school's testing window established for assessments of the state assessment developed under KRS 158.6453 or during a testing period established for the administration of additional district-wide assessments at the school, except if a principal determines that extenuating circumstances make an excused absence to pursue an educational enhancement opportunity appropriate.
- ~~(6)~~~~(4)~~ (a) If a student's parent, de facto custodian, or other person with legal custody or control of the student is a member of the United States Armed Forces, including a member of a state National Guard or a Reserve component called to federal active duty, a public school principal shall give the student:
 1. An excused absence for one (1) day when the member is deployed;

2. An additional excused absence for one (1) day when the service member returns from deployment; and
 3. Excused absences for up to ten (10) days for visitation when the member is stationed out of the country and is granted rest and recuperation leave.
- (b) A student receiving an excused absence under this subsection shall have the opportunity to make up school work missed and shall not have his or her class grades adversely affected for lack of class attendance or class participation due to the excused absence.
- (c) A student receiving an excused absence under this subsection shall be considered present in school during the excused absence for the purposes of calculating average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky program.

➔Section 2. KRS 158.070 is amended to read as follows:

(1) As used in this section:

- (a) "Election" has the same meaning as in KRS 121.015;
 - (b) "Minimum school term" or "school term" means not less than one hundred eighty-five (185) days composed of the student attendance days, teacher professional days, and holidays;
 - (c) "School calendar" means the document adopted by a local board of education that establishes the minimum school term, student instructional year or variable student instructional year, and days that school will not be in session;
 - (d) "School district calendar committee" means a committee that includes at least the following:
 1. One (1) school district principal;
 2. One (1) school district office administrator other than the superintendent;
 3. One (1) member of the local board of education;
 4. Two (2) parents of students attending a school in the district;
 5. One (1) school district elementary school teacher;
 6. One (1) school district middle or high school teacher;
 7. Two (2) school district classified employees; and
 8. Two (2) community members from the local chamber of commerce, business community, or tourism commission;
 - (e) "Student attendance day" means any day that students are scheduled to be at school to receive instruction, and encompasses the designated start and dismissal time;
 - (f) "Student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time for students delivered on not less than one hundred seventy (170) student attendance days;
 - (g) "Teacher professional day" means any day teachers are required to report to work as determined by a local board of education, with or without the presence of students; and
 - (h) "Variable student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time delivered on the number of student attendance days adopted by a local board of education which shall be considered proportionally equivalent to one hundred seventy (170) student attendance days and calendar days for the purposes of a student instructional year, employment contracts that are based on the school term, service credit under KRS 161.500, and funding under KRS 157.350.
- (2) (a) Beginning with the 2018-2019 school year, and each year thereafter, the local board of education, upon recommendation of the local school district superintendent, shall annually appoint a school district calendar committee to review, develop, and recommend school calendar options.
- (b) The school district calendar committee, after seeking feedback from school district employees, parents, and community members, shall recommend school calendar options to the local school district superintendent for presentation to the local board of education. The committee's recommendations shall

comply with state laws and regulations and consider the economic impact of the school calendar on the community and the state.

- (c) Prior to adopting a school calendar, the local board of education shall hear for discussion the school district calendar committee's recommendations and the recommendation of the superintendent at a meeting of the local board of education.
 - (d) During a subsequent meeting of the local board of education, the local board shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, student attendance days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.
 - (e) For local board of education meetings described in paragraphs (c) and (d) of this subsection, if the meeting is a regular meeting, notice shall be given to media outlets that have requests on file to be notified of special meetings stating the date of the regular meeting and that one (1) of the items to be considered in the regular meeting will be the school calendar. The notice shall be sent at least twenty-four (24) hours before the regular meeting. This requirement shall not be deemed to make any requirements or limitations relating to special meetings applicable to the regular meeting.
 - (f) Beginning with the 2018-2019 school year, and each year thereafter, a local school board of education that adopts a school calendar with the first student attendance day in the school term starting no earlier than the Monday closest to August 26 may use a variable student instructional year. Districts may set the length of individual student attendance days in a variable student instructional schedule, but no student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.
- (3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of students pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.
- (b) At least one (1) hour of self-study review of seizure disorder materials shall be required for all principals, guidance counselors, and teachers hired after July 1, 2019.
 - (c)
 1. A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.
 2. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
 3. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.
 - (d) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

- (e) Each local board may use two (2) days for planning activities without the presence of students.
- (f) Each local board may close schools for the number of days deemed necessary for:
 1. National or state emergency or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
 2. Local emergency which would endanger the health or safety of children; and
 3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.
- (4) (a) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of student attendance days as a result of a local emergency, as described in subsection (3)(f)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of waivers from the requirements of a student instructional year in subsection (1)(f) of this section for districts that wish to adopt innovative instructional calendars, or for circumstances that would create extreme hardship.
- (b) If a local board of education amends its school calendar after its adoption due to an emergency, it may lengthen or shorten any remaining student attendance days by thirty (30) minutes or more, as it deems necessary, provided the amended calendar complies with the requirements of a student instructional year in subsection (1)(f) of this section or a variable student instructional year in subsection (1)(h) of this section. No student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.
- (5) (a)
 1. In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings.
 2. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates.
 3. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit employees who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence.
 4. The commissioner of education shall designate one (1) additional day during the school year when schools may be closed to permit professional school employees to participate in regional or district professional meetings.
 5. These three (3) days so designated for attendance at professional meetings may be counted as a part of the minimum school term.
- (b)
 1. If any school in a district is used as a polling place, the school district shall be closed on the day of the election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.
 2. A district may be open on the day of an election if no school in the district is used as a polling place.
- (c) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:
 1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(d) of this section; or
 2. Not include the day in the minimum school term specified in subsection (1) of this section.
- (6) (a) The Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, shall be encouraged to schedule athletic competitions outside the regularly scheduled student attendance day.
- (b) Beginning with the 2009-2010 school year, any member of a school-sponsored interscholastic athletic team who competes in a regional tournament or state tournament sanctioned by the Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, and occurring on a regularly scheduled student attendance day may be counted present at school on the

date or dates of the competition, as determined by local board policy, for a maximum of two (2) days per student per year. The student shall be expected to complete any assignments missed on the date or dates of the competition.

- (c) The school attendance record of any student for whom paragraph (b) of this subsection applies shall indicate that the student was in attendance on the date or dates of competition.
- (7) ~~Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.~~
- ~~(8)~~ Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the student attendance day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the student attendance day.
- ~~(8)~~~~(9)~~ Notwithstanding any other statute, each school term shall include no less than the equivalent of the student instructional year in subsection (1)(f) of this section, or a variable student instructional year in subsection (1)(h) of this section, except that the commissioner of education may grant up to the equivalent of ten (10) student attendance days for school districts that have a nontraditional instruction plan approved by the commissioner of education on days when the school district is closed for health or safety reasons. The district's plan shall indicate how the nontraditional instruction process shall be a continuation of learning that is occurring on regular student attendance days. Instructional delivery methods, including the use of technology, shall be clearly delineated in the plan. Average daily attendance for purposes of Support Education Excellence in Kentucky program funding during the student attendance days granted shall be calculated in compliance with administrative regulations promulgated by the Kentucky Board of Education.
- ~~(9)~~~~(10)~~ By December 31, 2018, the Kentucky Board of Education shall promulgate administrative regulations to be effective beginning with the 2019-2020 school year to prescribe the conditions and procedures for districts to be approved for the nontraditional instruction program. Administrative regulations promulgated by the board under this section shall specify:
- (a) The application, plan review, approval, and amendment process;
 - (b) Reporting requirements for districts approved for the program, which may include but are not limited to examples of student work, lesson plans, teacher work logs, and student and teacher participation on nontraditional instruction days. Documentation to support the use of nontraditional instruction days shall include clear evidence of learning continuation;
 - (c) Timelines for initial approval as a nontraditional instruction district, length of approval, the renewal process, and ongoing evaluative procedures required of the district;
 - (d) Reporting and oversight responsibilities of the district and the Kentucky Department of Education, including the documentation required to show clear evidence of learning continuation during nontraditional instruction days; and
 - (e) Other components deemed necessary to implement this section.
- ~~(10)~~~~(11)~~ Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (2) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the beginning of the student attendance day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the student attendance day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

~~(11)(12)~~ Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses student attendance days due to emergencies, including weather-related emergencies:

- (a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:
 1. State and local requirements under this section are met regarding the equivalent of the number and length of student attendance days, teacher professional days, professional development days, holidays, and days for planning activities without the presence of students; and
 2. The provisions of the district's school calendar to make up student attendance days missed due to any emergency, as approved by the Kentucky Department of Education when required, including but not limited to a provision for additional instructional time per day, are met.
- (b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:
 1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make up full days missed due to an emergency;
 2. The employee's contract requires a minimum six (6) hour work day; and
 3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.
- (c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened student attendance days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened student attendance days.

➔Section 3. KRS 158.649 is amended to read as follows:

- (1) "Achievement gap" means the difference between performance goals and actual performance on each of the tested areas by grade level of the state assessment program for each of the various subgroups of students as described in the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor, including male and female students, students with and without disabilities, students with and without English proficiency, minority and nonminority students, and students who are eligible for free and reduced lunch and those who are not eligible for free and reduced lunch.
- (2) By October 1 of each year, the Department of Education shall provide each school council, or the principal if a school council does not exist, data on its students' performance as shown by the state assessment program described in KRS 158.6453. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, English proficiency, and participation in the federal free and reduced price lunch program, and any other subgroups as described in the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor. The information from the department shall include an equity analysis that shall identify the substantive differences among the various groups of students identified in subsection (1) of this section. Beginning with the 2012-2013 school year, the reporting requirement in this subsection shall be no later than seventy-five (75) days following the first day the assessment can be administered.
- (3) Each local board of education upon the recommendation of the local district superintendent shall adopt a policy for reviewing the academic performance on the state assessments required under KRS 158.6453 for various groups of students, including major racial groups, gender, disability, free and reduced price school lunch eligibility, and limited English proficiency. The local board policy shall be consistent with Kentucky Board of Education administrative regulations. Upon agreement of the school-based decision making council, or the principal if there is not a council, and the superintendent, the local board shall establish an annual target for each school for reducing identified gaps in achievement as set out in subsection (4) of this section.
- (4) By February 1 of each year, the school-based decision making council, or the principal if there is not a council, with the involvement of parents, faculty, and staff shall set the school's targets for eliminating any achievement gap and submit them to the superintendent for consideration. The superintendent and the school-

based decision making council, or the principal if there is not a council, shall agree on the targets before they are submitted to the local board of education for adoption.

- (5) By January 1 of each year, the school council, or the principal if a school council does not exist, with the involvement of parents, faculty, and staff, shall review the data and revise the school improvement plan to include the targets, strategies, activities, and a time schedule calculated to eliminate the achievement gap among various groups of students to the extent it may exist. The plan shall include but not be limited to activities designed to address the following areas:
 - (a) Curriculum alignment within the school and with schools that send or receive the school's students;
 - (b) Evaluation and assessment strategies to continuously monitor and modify instruction to meet student needs and support proficient student work;
 - (c) Professional development to address the goals of the plan;
 - (d) Parental communication and involvement;
 - (e) Attendance improvement and dropout prevention; and
 - (f) Technical assistance that will be accessed.
- (6) The principal shall convene a public meeting at the school to present and discuss the plan prior to submitting it to the superintendent and the local board of education for review, in the public meeting required under KRS 160.340.
- (7) Based on the disaggregated assessment results, the local board shall determine if each school achieved its targets for each group of students. Only data for a group of students including ten (10) or more students shall be considered.
- (8) Notwithstanding KRS 160.345(8) and 158.070(7)~~[(8)]~~, if a local board determines that a school has not met its target to reduce the identified gap in student achievement for a group of students, the local board shall require the council, or the principal if no council exists, to submit its revisions to the school improvement plan describing the use of professional development funds and funds allocated for continuing education to reduce the school's achievement gap for review and approval by the superintendent. The plan shall address how the school will meet the academic needs of the students in the various groups identified in subsection (1) of this section.
- (9) The superintendent shall report to the local school board and the commissioner of education if a school fails to meet its targets in any academic content area to reduce the gap in student achievement for any student group for two (2) consecutive years. The school's improvement plan shall be subject to review and approval by the Kentucky Department of Education and the school shall submit an annual status report. The Department of Education may provide assistance as defined in KRS 160.346 to schools as it deems necessary to assist the school in meeting its goals.
- (10) The school-based decision making council, or the principal if there is not a council, shall no longer be required to seek approval of the plan under subsections (8) and (9) of this section when it meets its target for reducing the gap in student achievement for the various groups of students identified in subsection (1) of this section.

➔Section 4. This Act may be cited as Wyatt's Act.

➔Section 5. Whereas participation in civics is a vital part of a student's overall education, 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.

Signed by Governor April 8, 2022.