

CHAPTER 120**(SB 5)**

AN ACT relating to education and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "harmful to minors" means materials, programs, or events that:*
- (a) *Contain the exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area, or buttocks or the female breast, or visual depictions of sexual acts or simulations of sexual acts, or explicit written descriptions of sexual acts;*
 - (b) *Taken as a whole, appeal to the prurient interest in sex; or*
 - (c) *Is patently offensive to prevailing standards regarding what is suitable for minors.*
- (2) *No later than July 1, 2023, each local board of education shall adopt a complaint resolution policy for its local schools to be used to address complaints submitted by parents or guardians alleging that material, a program, or an event that is harmful to minors has been provided or is currently available to a student enrolled in the local school district who is the child of the parent or guardian. The complaint resolution process shall require that:*
- (a) *Complaints be submitted in writing to the principal of the school where the student is enrolled;*
 - (b) *Complaints provide the name of the complainant, a reasonably detailed description of the material, program, or event that is alleged to be harmful to minors, and how the material, program, or event is believed to be harmful to minors;*
 - (c) *Within seven (7) business days of receiving a written complaint, the school principal shall review the complaint and take reasonable steps to investigate the allegations in the complaint, including but not limited to reviewing the material, program, or event that is alleged to be harmful to minors;*
 - (d) *The school principal shall determine whether the material, program, or event that is the subject of the complaint is harmful to minors;*
 - (e) *The school principal shall determine whether student access to material that is the subject of the complaint shall remain, be restricted, or be removed;*
 - (f) *The school principal shall determine whether a program or event that is the subject of the complaint shall be eligible for future participation by students in the school;*
 - (g) *Within ten (10) business days of receiving the complaint, unless another schedule is mutually agreed to by the parent or guardian and the school principal, the school principal shall confer with the parent or guardian and inform him or her whether the material, program, or event that is the subject of the complaint was determined to be harmful to minors and what the resolution will be in accordance with paragraphs (e) and (f) of this subsection;*
 - (h) *Appeals of the school principal's determination provided for in paragraphs (d), (e), and (f) of this subsection shall:*
 - 1. *Be subject to full administrative and substantive review by the local board of education and shall not be delegated;*
 - 2. *Include an opportunity for the parent or guardian to provide input during public comment at a local board of education meeting;*
 - 3. *Be completed within thirty (30) calendar days of receiving the written appeal unless another time frame is mutually agreed upon by the parent or guardian and the local board of education; and*
 - 4. *Be discussed and voted on during a meeting of the local board of education subject to the open records and open meeting requirements under KRS Chapter 61;*

- (i) *The board's final disposition of the appeal shall be made in writing and shall state whether the material, program, or event was determined to be harmful to minors and whether student access to the material will remain, be restricted, or be removed and whether the program or event shall be eligible for future participation by students in the school; and*
- (j) *Within fifteen (15) business days from the date of a final disposition, the title of the material or a description of the program or event submitted for appeal pursuant to paragraph (h) of this subsection, whether the material, program, or event was determined to be harmful to minors, whether student access to the material will remain, be restricted, or be removed or whether the program or event shall be eligible for future participation by students in the school, and the vote cast by each individual board member shall:*
 - 1. *Be published on the website of the local board of education where it shall remain available for review; and*
 - 2. *Be published in the newspaper with the largest circulation in the county.*
- (3) (a) *A parent or guardian may request in writing to the school, after final disposition is determined by the board as provided for in subsection (2)(i) of this section, that the school ensure his or her student does not have access to the material, program, or event that the parent or guardian believes to be harmful to minors but was allowed to remain or be eligible for future participation.*
- (b) *The school shall ensure that the student whose parent or guardian has made a request as provided for in paragraph (a) of this subsection does not have access to the material or is not allowed to participate in the program or event that the parent or guardian believes to be harmful to minors.*
- (4) *A parent or guardian not having filed the appeal may request in writing access to the appealed materials, programs, or events for review and shall abide by the school's and district's policies and procedures when requesting and reviewing such information.*
- (5) *No later than May 1, 2023, the Department of Education shall promulgate a model policy for a complaint resolution process that meets the requirements of subsections (2), (3), and (4) of this section.*

➔Section 2. Whereas it is imperative that materials, programs, and events that are harmful to minors not be made available to students within the schools of the Commonwealth, 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.

Became law without Governor's signature March 29, 2023.