

**160.345 Definitions -- Required adoption of school councils for school-based decision making -- Composition -- Responsibilities -- Professional development -- Exemption -- Formula for allocation of school district funds -- Intentionally engaging in conduct detrimental to school-based decision making by board member, superintendent, district employee, or school council member -- Complaint procedure -- Disciplinary action -- Rescission of right to establish and powers of council -- Wellness policy.**

- (1) For the purpose of this section:
  - (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
  - (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school. The term "school" does not include district-operated schools that are:
    1. Exclusively vocational-technical, special education, or preschool programs;
    2. Instructional programs operated in institutions or schools outside of the district; or
    3. Alternative schools designed to provide services to at-risk populations with unique needs;
  - (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals and assistant principals; and
  - (d) "Parent" means:
    1. A parent, stepparent, or foster parent of a student; or
    2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.
- (2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:
  - (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent

representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

- (b)
  1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.
  2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
    - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
    - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
- (c)
  1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.
  2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the

number of committees, their jurisdiction, composition, and the process for membership selection;

- (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
- (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;
- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
- (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;
- (h) Personnel decisions at the school level shall be as follows:
  - 1. From a list of qualified applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with paragraph (i)11. of this subsection. The superintendent shall provide additional applicants to the principal upon request when qualified applicants are available. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect;
  - 2.
    - a.
      - i. If the vacancy to be filled is the position of principal, the outgoing principal shall not serve on the council during the principal selection process. The superintendent or the superintendent's designee shall serve as the chair of the council for the purpose of the hiring process and shall have voting rights during the selection process.
      - ii. Except as provided in subdivision b. of this subparagraph, the council shall have access to the applications of all

persons certified for the position. The principal shall be elected on a majority vote of the membership of the council. No principal who has been previously removed from a position in the district for cause may be considered for appointment as principal. The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training;

- b. An alternative principal selection process may be used by the school council as follows:
  - i. Prior to a meeting called to select a principal, all school council members shall receive informational materials regarding Kentucky open records and open meetings laws and sign a nondisclosure agreement forbidding the sharing of information shared and discussions held in the closed session;
  - ii. The superintendent shall convene the school council and move into closed session as provided in KRS 61.810(1)(f) to confidentially recommend a candidate;
  - iii. The council shall have the option to interview the recommended candidate while in closed session; and
  - iv. After any discussion, at the conclusion of the closed session, the council shall decide, in a public meeting by majority vote of the membership of the council, whether to accept or reject the recommended principal candidate;
- c. If the recommended candidate is selected, and the recommended candidate accepts the offer, the name of the candidate shall be made public during the next meeting in open session;
- d.
  - i. If the recommended candidate is not accepted by the school council under subdivision b. of this subparagraph, then the process set forth in subdivision a. of this subparagraph shall apply.
  - ii. The confidentially recommended candidate's name and the discussions of the closed session shall remain confidential under KRS 61.810(1)(f), and any documents used or generated during the closed meeting shall not be subject to an open records request as provided in KRS 61.878(1)(i) and (j).
  - iii. A recommended candidate who believes a violation of this subdivision has occurred may file a written complaint with the Kentucky Board of Education.
  - iv. A school council member who is found to have disclosed confidential information regarding the proceeding of the closed session shall be subject to removal from the school

council by the Kentucky Board of Education under subsection (9)(e) of this section;

3. Personnel decisions made at the school level under the authority of subparagraphs 1. and 2. of this paragraph shall be binding on the superintendent who completes the hiring process;
  4. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020; and
  5. Notwithstanding other provisions of this paragraph, if the applicant is the spouse of the superintendent and the applicant meets the service requirements of KRS 160.380(2)(e), the applicant shall only be employed upon the recommendation of the principal and the approval of a majority vote of the school council;
- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under KRS 158.6453(19);
  2. Assignment of all instructional and noninstructional staff time;
  3. Assignment of students to classes and programs within the school;
  4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
  5. Determination of use of school space during the school day related to improving classroom teaching and learning;
  6. Planning and resolution of issues regarding instructional practices;
  7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
  8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
  9. Adoption of an emergency plan as required in KRS 158.162;
  10. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
  11. Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and
- (j) Each school council shall annually review data as shown on state and local student assessments required under 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, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than October 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

- (3) The policies adopted by the local board to implement school-based decision making shall also address the following:
  - (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
  - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
  - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
  - (d) Professional development plans developed pursuant to KRS 156.095;
  - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
  - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
  - (g) Requirements for waiver of district policies;
  - (h) Requirements for record keeping by the school council; and
  - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) All schools shall implement school-based decision making in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS

158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.
- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

- (9)
  - (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
  - (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
  - (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
  - (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.
  - (e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the state board determines a violation of the confidentiality requirements set forth in subsection (2)(h)2. of this section by a school council member has occurred, the state board shall remove the member from the school council, and the member shall be permanently prohibited from serving on any school council in the district.
- (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.
- (11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical



activity being provided. The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.

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

**Effective:** April 10, 2017

**History:** Amended 2017 Ky. Acts ch. 156, sec. 11, effective April 10, 2017. -- Amended 2016 Ky. Acts ch. 104, sec. 1, effective July 15, 2016. -- Amended 2013 Ky. Acts ch. 126, sec. 8, effective June 25, 2013; and ch. 133, sec. 8, effective June 25, 2013. -- Amended 2012 Ky. Acts ch. 85, sec. 2, effective July 12, 2012. -- Amended 2011 Ky. Acts ch. 76, sec. 1, effective June 8, 2011. -- Amended 2009 Ky. Acts ch. 101, sec. 12, effective March 25, 2009. -- Amended 2008 Ky. Acts ch. 105, sec. 1, effective July 15, 2008. -- Amended 2005 Ky. Acts ch. 84, sec. 6, effective June 20, 2005. -- Amended 2004 Ky. Acts ch. 188, sec. 4, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 81, sec. 1, effective June 24, 2003. -- Amended 2002 Ky. Acts ch. 152, sec. 1, effective July 15, 2002; and ch. 302, sec. 5, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 212, sec. 1, effective July 14, 2000; ch. 339, sec. 2, effective July 14, 2000; ch. 418, sec. 1, effective July 14, 2000; and ch. 527, sec. 14, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 493, sec. 14, effective April 10, 1998; and ch. 609, sec. 3, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 34, sec. 1, effective July 15, 1996; ch. 74, sec. 1, effective July 15, 1996; ch. 146, sec. 1, effective July 15, 1996; ch. 318, sec. 52, effective July 15, 1996; and ch. 362, secs. 1 and 6, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 103, sec. 3, effective July 15, 1994; ch. 187, sec. 1, effective July 15, 1994; ch. 247, sec. 1, effective July 15, 1994; ch. 411, sec. 1, effective July 15, 1994; and ch. 484, sec. 1, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 376, sec. 3, effective July 14, 1992; and ch. 393, sec. 3, July 14, 1992. -- Created 1990 Ky. Acts ch. 476, Pt. I, sec. 14, effective July 13, 1990.

**2018-2020 Budget Reference.** See State/Executive Branch Budget, 2018 Ky. Acts ch. 169, Pt. I, C, 3, (9) at 1310.

**Legislative Research Commission Note (4/10/2017).** In codification, the Reviser of Statutes has corrected a manifest clerical or typographical error in subsection (2)(j) of this statute by replacing "November 1" with "October 1" regarding the date that the Department of Education must annually transmit student performance data shown by the state assessment program to each school council. This correction was made to conform with the same change of dates in 2017 Ky. Acts ch. 156, sec. 7, subsec. (2), codified in KRS 158.649.

**Legislative Research Commission Note (6/25/2013).** This statute was amended with identical text in 2013 Ky. Acts chs. 126 and 133, which were companion bills. These Acts have been codified together.

**Legislative Research Commission Note (7/15/96).** This section was amended by 1996 Ky. Acts chs. 34, 74, 146, 318, and 362. Where these Acts are not in conflict, they have been codified together. A conflict exists between Acts chs. 34 and 362. Under KRS 446.250, Acts ch. 362, which was last enacted by the General Assembly, prevails.