

158.120 Nonresident pupils -- Nonresident pupil policy -- Tuition -- Enrollment of nonresident pupils in virtual programs -- Limitations -- Sunset.

- (1) A board of education shall adopt a nonresident pupil policy to govern the terms under which the district shall allow enrollment of nonresident pupils. Upon allowing nonresident pupil enrollment, the policy shall allow nonresident children to be eligible to enroll in any public school located within the district. The policy shall not discriminate between nonresident pupils, but may recognize enrollment capacity, as determined by the local school district. The nonresident pupil policy and any subsequent changes adopted by a board of education shall be filed with the Kentucky Department of Education no later than thirty (30) days following their adoption.
- (2) Any board of education may charge a reasonable tuition fee per month for each child attending its schools whose parent, guardian, or other legal custodian is not a bona fide resident of the district. Any controversy as to the fee shall be submitted to the Kentucky Board of Education for final settlement. The fee shall be paid by the board of education of the school district in which the pupil resides, except in cases where the board makes provision for the child's education within his or her district. If a board of education is required to pay a pupil's tuition fee, the pupil shall be admitted to a school only upon proper certificate of the board of education of the district in which he or she resides.
- (3) When it appears to the board of education of any school district that it is convenient for a pupil of any grade residing in that district to attend an approved public school in another district, the board of education may enter into a tuition contract with the public school authorities of the other school district for that purpose, but before a contract is entered into with public school authorities in another state the school shall have been approved by the state school authorities of that state through the grades in which the pupil belongs. When a district undertakes, under operation of a tuition contract or of law, to provide in its school for pupils residing in another district, the district of their residence shall share the total cost of the school, including transportation when furnished at public expense, in proportion to the number of pupils or in accordance with contract agreement between the two (2) boards.
- (4) As used in this subsection, "virtual program" has the same meaning as in KRS 157.320. A school district may enroll nonresident pupils on a full-time basis in kindergarten through grade twelve (12) in a virtual program established under KRS 158.100 by that district. Nonresident pupil enrollment shall be subject to the following requirements:
 - (a) Beginning with the 2025-2026 school year, the statewide total enrollment of nonresident pupils in virtual programs offered by school districts shall not exceed an enrollment cap of one percent (1%) of the previous year's total statewide student enrollment in all school districts. By July 1, 2025, and each year thereafter until June 30, 2028, the Kentucky Department of Education shall publish on its website the previous year's total statewide student enrollment in all school districts and the one percent (1%) value of that number. The information shall remain on the website for the remainder of

each school year;

- (b) Each school district shall report in the student information system the nonresident pupils enrolled in the district's virtual programs. The department shall monitor the number of statewide total enrollment of nonresident pupils in virtual programs;
- (c) If the number of statewide total enrollment of nonresident pupils in virtual programs reaches eighty-five hundredths of one percent (0.85%) of the previous year's total statewide student enrollment in all school districts, the department shall alert all school districts operating virtual programs that the nonresident enrollment cap has almost been reached. Upon receiving the alert, a school district shall notify any nonresident pupil seeking enrollment in a virtual program operated by the school district that the pupil will be provisionally enrolled until the department can confirm that the pupil's enrollment would not exceed the enrollment cap, and shall report the pupil as provisionally enrolled in the student information system. If the department determines that a pupil's enrollment would exceed the enrollment cap, the department shall notify the school district that the pupil cannot be approved for enrollment due to the enrollment cap. The department shall determine whether the pupil's enrollment will exceed the enrollment cap and provide notice to the school district of the determination. If the department fails to provide the school district with the determination within two (2) business days, the pupil shall be deemed to not exceed the enrollment cap and the provisional status shall be removed;
- (d) If the nonresident enrollment cap is reached, the department shall notify all school districts operating virtual programs and that no additional nonresident pupils shall be enrolled until such time as nonresident enrollment falls below the enrollment cap;
- (e) After reaching the nonresident enrollment cap, if the number of statewide total enrollment of nonresident pupils in virtual programs falls back below the enrollment cap, the department shall notify all school districts operating virtual programs that nonresident enrollment may resume again, but any nonresident pupils enrolled for the remainder of the school year shall be provisionally enrolled, following the same process outlined in paragraph (c) of this subsection; and
- (f) The nonresident enrollment cap established in this subsection shall not apply to any of the following pupils:
 - 1. A sibling of a pupil already enrolled into the same virtual program;
 - 2. A pupil who is a dependent of a member of the Armed Forces of the United States; or
 - 3. A pupil with a medical condition for which enrolling into the virtual program may be beneficial to the pupil, which shall be evidenced in a written statement signed by the pupil's physician.

All documentation related to these exceptions to the nonresident enrollment cap shall be maintained by the school district enrolling the nonresident pupil as part of the pupil's official record.

- (5) A school district operating a virtual program that enrolls nonresident pupils shall no longer continue the enrollment of nonresident pupils in the program after June 30, 2028, unless explicit permission to do so is provided by the General Assembly.

Effective: March 27, 2025

History: Amended 2025 Ky. Acts ch. 94, sec. 4, effective March 27, 2025. -- Amended 2021 Ky. Acts ch. 167, sec. 2, effective June 29, 2021. -- Amended 1996 Ky. Acts ch. 362, sec. 6, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 476, Pt. IV, sec. 202, effective July 13, 1990. -- Amended 1978 Ky. Acts ch. 155, sec. 82, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4399-51.