

AN ACT relating to exceptional children.

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

➔Section 1. KRS 157.200 is amended to read as follows:

- (1) "Exceptional children and youth" means persons **enrolled in public preschools, elementary schools, or secondary schools**~~[under twenty-one (21) years of age]~~ who differ in one (1) or more respects from same-age peers in physical, mental, learning, emotional, or social characteristics and abilities to such a degree that they need special educational programs or services for them to benefit from the regular or usual facilities or educational programs of the public schools in the districts in which they reside. **An exceptional child or youth shall be allowed to remain in school until the end of the student instructional year, as defined in KRS 158.070, in which he or she reaches the age of twenty-two (22).** The Department of Education, through administrative regulations promulgated by the Kentucky Board of Education, shall interpret the statutory definitions of exceptionality. An exceptionality is any trait so defined in this section or by administrative regulations promulgated by the Kentucky Board of Education. Requirements of average daily attendance for exceptional classes shall be regulated by statute, or in the absence of direction by administrative regulations promulgated by the Kentucky Board of Education. Categories of exceptionalities included within, but not limited by, this definition are as follows:
- (a) "Orthopedic impairment" means a severe physical impairment of bone or muscle which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes physical impairments caused by congenital anomaly, disease, and from other causes;
- (b) "Other health impaired" means limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, due to a chronic or

acute health problem which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. Chronic health problems may include, but are not be limited to, a heart condition, tuberculosis, sickle cell anemia, hemophilia, epilepsy, rheumatic fever, nephritis, asthma, lead poisoning, leukemia, diabetes, attention deficit disorder, attention deficit hyperactive disorder, or acquired immune deficiency syndrome;

- (c) "Speech or language impairment" means a communication disorder such as stuttering, impaired articulation, impaired language, impaired voice, delayed acquisition of language, or absence of language that adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education;
- (d) "Hearing impairment" means a physiological hearing loss:
 - 1. Ranging from mild to profound, which is either permanent or fluctuating, and of such a degree that the pupil is impaired in the processing of linguistic information via the auditory channel either with or without amplification; or
 - 2. That adversely affects educational performance so that specially designed instruction is required for the child or youth to benefit from education.

The term shall include both deaf and hard of hearing children;

- (e) "Mental disability" means a deficit or delay in intellectual and adaptive behavior functioning, which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education, and which is typically manifested during the developmental period;
- (f) "Specific learning disability" means a disorder in one (1) or more of the

psychological processes primarily involved in understanding or using spoken or written language, which selectively and significantly interferes with the acquisition, integration, or application of listening, speaking, reading, writing, reasoning, or mathematical abilities. "Specific learning disability" may include conditions such as dyslexia, dyscalculia, dysgraphia, developmental aphasia, or perceptual motor disabilities. The disorder is lifelong, intrinsic to the individual, and adversely affects educational performance to the extent that specially designed instruction is required in order for the pupil to benefit from education. Determination of the existence of a specific learning disability shall include documentation that a child does not make sufficient progress in meeting age or grade-level content standards when provided with appropriate instruction and learning experiences delivered by qualified personnel, including the child's response to scientific, research-based interventions and additional information derived from an individual evaluation. The term does not include a learning problem which is primarily the result of:

1. A hearing impairment;
 2. Visual, physical, mental, or emotional-behavioral disabilities;
 3. Environmental, cultural, or economic differences; or
 4. Limited English proficiency;
- (g) "Emotional-behavioral disability" means a condition characterized by behavioral excess or deficit which significantly interferes with a pupil's interpersonal relationships or learning process to the extent that it adversely affects educational performance so that specially designed instruction is required in order for the pupil to benefit from education;
- (h) "Multiple disability" means a combination of two (2) or more disabilities resulting in significant learning, developmental, or behavioral and emotional problems, which adversely affects educational performance and, therefore,

requires specially designed instruction in order for the pupil to benefit from education. A pupil is not considered to have a multiple disability if the adverse effect on educational performance is solely the result of deaf-blindness or the result of speech or language disability and one (1) other disabling condition;

- (i) "Deaf-blind" means auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that the pupil cannot be appropriately educated in special education programs designed solely for pupils with hearing impairments, visual impairments, or severe disabilities, unless supplementary assistance is provided to address educational needs resulting from the two (2) disabilities;
- (j) "Visually disabled" means a visual impairment, which, even with correction, adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes both partially seeing and blind pupils;
- (k) "Developmental delay" means a significant discrepancy between a child's current level of performance in basic skills such as cognition, language or communication, self-help, social-emotional, or fine or gross motor, and the expected level of performance for that age. The term shall be used only with children ages three (3) through eight (8);
- (l) "Traumatic brain injury" means an acquired impairment to the neurological system resulting from an insult to the brain which adversely affects educational performance and causes temporary or permanent and partial or complete loss of:
 - 1. Cognitive functioning;
 - 2. Physical ability; or
 - 3. Communication or social-behavioral interaction.

The term does not include a brain injury that is congenital or degenerative, or

a brain injury induced by birth trauma;

(m) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

1. Engagement in repetitive activity and stereotyped movement;
2. Resistance to environmental change or change in daily routine; and
3. Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability; and

(n) "Gifted and talented student" means a pupil identified as possessing demonstrated or potential ability to perform at an exceptionally high level in general intellectual aptitude, specific academic aptitude, creative or divergent thinking, psychosocial or leadership skills, or in the visual or performing arts.

(2) "Special education" means specially designed instruction to meet the unique needs of an exceptional child or youth.

(3) "Special educational facilities" means physical facilities designed or adapted to meet the needs of exceptional children and youth, and approved according to regulations promulgated by the Kentucky Board of Education.

(4) "Related services" means transportation and the developmental, corrective, and other supportive services required to assist an exceptional child or youth to benefit from special education, and may include, but are not limited to, speech-language pathology and audiology services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities; counseling services, including rehabilitation counseling; orientation and mobility services; medical services for diagnostic or evaluation purposes; school health services; social work services in schools; and parent

counseling and training.

- (5) "Transition services" means a coordinated set of activities for a pupil designed within an outcome-oriented process, that promotes movement from school to postschool activities. The term includes:
- (a) Postsecondary education;
 - (b) Vocational training; and
 - (c) Integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.

The coordinated set of activities shall be based on the individual pupil's needs, taking into account the pupil's preferences and interests, and shall include instruction, community experience, the development of employment, and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

➔Section 2. KRS 159.990 is amended to read as follows:

- (1) Any parent, guardian, or custodian who intentionally fails to comply with the requirements of KRS 159.010 to 159.170, except as provided in subsection (5) of this section, shall be fined one hundred dollars (\$100) for the first offense, and two hundred fifty dollars (\$250) for the second offense. Each subsequent offense shall be classified as a Class B misdemeanor. A new offense shall not be constituted until any previous offense has been finally adjudicated. The court trying the case may suspend enforcement of the fine if the child is immediately placed in attendance at a school, and may finally remit the fine if the attendance continues regularly for the full school term. School attendance may be proved by an attested certificate of the principal or teacher in charge of the school.
- (2) Any principal, teacher, director of pupil personnel, assistant director of pupil personnel, or other school officer who intentionally fails to comply with the

provisions of KRS 159.010 to 159.250, or of KRS 160.330 shall be fined not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50). Upon conviction under this subsection, a director of pupil personnel or assistant director of pupil personnel shall be removed from office and have his certificate revoked, and a principal, teacher, or other school officer may have his certificate revoked.

- (3) Any person, other than those persons mentioned in subsections (1) and (2) of this section, who fails to comply with any of the provisions of this chapter relating to compulsory attendance, or who violates any of the provisions of KRS 159.130, shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200), or imprisoned in the county jail for not more than sixty (60) days, or both.
- (4) Any person who violates any of the provisions of KRS 159.270 shall be liable to a fine of not less than fifty dollars (\$50) and shall be liable to the punishment prescribed by law for the crime of false swearing. If he is an officer, he shall be removed from office; and if he is a director of pupil personnel, his certificate shall be revoked.
- (5) Any of the following who intentionally fails to comply with the requirements of KRS 159.150 shall be fined one hundred dollars (\$100) for the first offense and two hundred fifty dollars (\$250) for each subsequent offense:
 - (a) A student enrolled in a public school who has attained the age of eighteen (18) years, but who has not yet reached his or her twenty-first birthday, for whom a guardian has not been appointed by a court of competent jurisdiction, whether or not that student is identified as an exceptional child or youth under KRS 157.200(1)(a) to (m);
 - (b) A parent, guardian, or custodian of a student enrolled in a public school who has not reached his or her eighteenth birthday; or
 - (c) A guardian appointed by a court of competent jurisdiction of a student who is enrolled in a public school, has been identified as an exceptional child or

youth under KRS 157.200(1)(a) to (m), and has attained the age of eighteen (18) years, but who has not yet **completed the student instructional year, as defined in KRS 158.070, during which he or she has reached the age of twenty-two (22)**~~reached his or her twenty-first birthday~~.

Any person described in paragraph (a), (b), or (c) of this subsection shall be informed by personnel of the local school district that a public school student ~~who has not reached his or her twenty-first birthday~~ shall be subject to truancy laws.

- (6) All fines imposed and all sums required to be paid as penalties under this section shall, after payment of the costs of prosecution and recovery thereof, be paid into the treasury of the district board of education and become a part of the school fund of the district.

➔Section 3. KRS 158.100 is amended to read as follows:

- (1) Notwithstanding any statute to the contrary, each school district shall provide an approved preschool school program through twelve (12) grade school service. An approved preschool school program through eight (8) grade school service shall be provided for the children residing in the district by maintaining schools. An approved high school service for all children of high school grade under twenty-one (21) years of age residing in the district shall be provided either by maintaining the schools within the district or by contract with another district. The board of education of any school district, subject to the approval of the chief state school officer, may establish night schools, industrial schools, and other schools for the residents of the district as it deems advisable.
- (2) A school district may provide an approved high school program to a student who is a refugee or legal alien until the student graduates or until the end of the school year in which the student reached the age of twenty-one (21), whichever occurs first.
- (3) A school district shall provide an approved high school program to a student identified as an exceptional child or youth, as defined in Section 1 of this Act,**

until the end of the student instructional year, as defined in KRS 158.070, in which the student has reached the age of twenty-two (22).

➔Section 4. KRS 159.150 is amended to read as follows:

- (1) Any student who has attained the age of six (6) years, but has not reached his or her eighteenth birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.
- (2) Any student enrolled in a public school who has attained the age of eighteen (18) years, but has not reached his or her twenty-first birthday, **or any exceptional child or youth, as defined in Section 1 of this Act, who has not completed the student instructional year, as defined in KRS 158.070, in which he or she has reached the age of twenty-two (22),** who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.
- (3) Any student who has been reported as a truant two (2) or more times is an habitual truant.
- (4) For the purposes of establishing a student's status as a truant, the student's attendance record is cumulative for an entire school year. If a student transfers from one (1) Kentucky public school to another during a school year, the receiving school shall incorporate the attendance information provided under KRS 159.170 in the student's official attendance record.
- (5) A local board of education may adopt reasonable policies that:
 - (a) Require students to comply with compulsory attendance laws;
 - (b) Require truants and habitual truants to make up unexcused absences;
 - (c) Impose sanctions for noncompliance; and
 - (d) Collaborate and cooperate with the Court of Justice, the Department for Community Based Services, the Department of Juvenile Justice, regional

community mental health centers, and other service providers to implement and utilize early intervention and prevention programs, such as truancy diversion, truancy boards, mediation, and alternative dispute resolution to reduce referrals to a court-designated worker.