

1 AN ACT relating to digital learning.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
4 READ AS FOLLOWS:

5 *The General Assembly hereby establishes the Digital Learning and Workforce*
6 *Development Pilot Program to benefit parents, teachers, and community members by*
7 *offering new, innovative, and more flexible ways of educating children within the*
8 *public school system and by advancing a renewed commitment to the mission, goals,*
9 *and diversity of public education. The purposes of the Digital Learning and Workforce*
10 *Development Pilot Program are to:*

11 *(1) Improve student learning, workforce development, and career readiness by*
12 *creating more availability for digital learning, including enhanced opportunities*
13 *for career and technical education;*

14 *(2) Encourage the use of new technologies and digital learning to expand and*
15 *equalize access across the Commonwealth to digital content, virtual teaching,*
16 *innovative approaches in scheduling, mastery-based education, and other aspects*
17 *of schooling that meet a variety of student needs;*

18 *(3) Help close achievement gaps between high-performing and low-performing*
19 *groups of public school students;*

20 *(4) Enhance and improve the efficiency of the common schools throughout the state;*

21 *(5) Increase the number of educational opportunities within the public education*
22 *system for all students, especially those at risk of academic failure; and*

23 *(6) Provide students, parents, community members, and local entities with expanded*
24 *opportunities in the public education system.*

25 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
26 READ AS FOLLOWS:

27 *As used in Sections 1 to 5 of this Act, unless the context otherwise requires:*

- 1 (1) "Authorizing board" means a local board of education of a school district which
2 has authorized a virtual school program;
- 3 (2) "Authorizing district" means a local school district which has established a
4 virtual school program under its board of education's authority and governance;
- 5 (3) "Nonresident district" means a local school district, other than the authorizing
6 district, in which a virtual school program student or applicant resides;
- 7 (4) "Nonresident student" means a student who has applied to or enrolled in a
8 virtual school program and who resides in a nonresident district;
- 9 (5) "Resident student" means a student who has applied to or enrolled in a virtual
10 school program and who resides in the authorizing district of the program; and
- 11 (6) "Virtual school program" or "program" means a public school established by a
12 local board of education that:
- 13 (a) Conforms with the goals and objectives outlined in Section 1 of this Act;
14 (b) Provides full-time instruction to students, which may be remote from a
15 school facility, through online learning, or otherwise, on a computer or
16 through other technology; and
17 (c) Is governed by the policies adopted by the authorizing school district.

18 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
19 READ AS FOLLOWS:

- 20 (1) Beginning in the 2018-2019 academic year and continuing through the 2022-
21 2023 academic year, the Digital Learning and Workforce Development Pilot
22 Program shall allow a maximum number of two (2) virtual school programs to be
23 authorized per academic year, as follows:
- 24 (a) A local school board may apply with the Kentucky Board of Education to
25 become the authorizing district of a virtual school program by submitting
26 an application that includes:
- 27 1. The objectives of the local school board in becoming an authorizing

- 1 board;
 2 2. A detailed plan for implementation of the virtual school program
 3 within the applying district;
 4 3. A detailed plan for how the local school board will evaluate the virtual
 5 school program throughout the pilot project period; and
 6 4. Any other information the Kentucky Board of Education determines
 7 necessary to carry out this subsection;

8 (b) The Kentucky Board of Education shall then review the submitted
 9 applications and select the two (2) local school boards that have best
 10 demonstrated the capability to implement the virtual school program and
 11 the program's objectives as outlined in Section 1 of this Act; and

12 (c) Upon selection by the Kentucky Board of Education, each local school
 13 board shall become an authorizing board and entitled to authorize one (1)
 14 virtual school program.

15 (2) A virtual school program authorized under this section shall be:

16 (a) Part of the efficient operation of the system of common schools throughout
 17 the state;

18 (b) Considered a common school under KRS 158.6453 and for other testing
 19 and accountability purposes; and

20 (c) Divided into separate schools in the same manner as other common schools
 21 in the Commonwealth if serving multiple grades.

22 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
 23 READ AS FOLLOWS:

24 (1) A local board of education authorizing the establishment of a virtual school
 25 program through the Digital Learning and Workforce Development Pilot
 26 Program under Section 3 of this Act shall establish the policies necessary for the
 27 governance of the program that:

- 1 (a) Specify the governing structure and whether the program shall have:
- 2 1. A school council as established under KRS 160.345; or
- 3 2. An advisory or governing council consisting of administrators, faculty,
- 4 and parents that is designed by the local board of education;
- 5 (b) Outline the administrative structure;
- 6 (c) Determine the staff required;
- 7 (d) Identify the grade levels to be served;
- 8 (e) Specify the courses to be offered;
- 9 (f) Provide a school schedule and calendar;
- 10 (g) Identify the curriculum to be used in instruction;
- 11 (h) Set the maximum capacity of the program;
- 12 (i) Make any resident student of the authorizing district eligible for enrollment;
- 13 (j) Specify whether the program will be open for nonresident students to
- 14 attend;
- 15 (k) Identify the application process; and
- 16 (l) Determine the admissions process if applications from resident students
- 17 exceed capacity.
- 18 (2) If an authorizing board elects by policy to allow enrollment of nonresident
- 19 students in the district's virtual school program, then:
- 20 (a) For each school year, the virtual school program shall only enroll
- 21 nonresident students if the program has, by no earlier than August 1, first
- 22 enrolled all approved resident student applicants and not reached capacity;
- 23 (b) The program shall create and publish an application form by March 1 of
- 24 each school year and accept applications until at least June 1 for the
- 25 following school year;
- 26 (c) Upon receipt of an application from a nonresident student, the virtual
- 27 school program shall provide notice of the application to the appropriate

1 nonresident district;

2 (d) The local board of education of the nonresident district may object to the
3 participation of the nonresident student in the virtual school program
4 within thirty (30) days of receipt of notice. Any such objection shall be
5 based on the best educational interests of the student and shall state with
6 specificity the basis of the objection;

7 (e) If a local board of education of the nonresident district votes to object to a
8 student's participation in a virtual school program under this subsection,
9 the student may appeal the denial to Department of Education, which shall
10 review the case and make a final determination. The department shall act
11 upon any appeal within twenty (20) days of receipt. The determination shall
12 be based on the evidence presented by the parties regarding the best
13 education interests of the child. Deference shall be given to the parent's
14 determination that participation is in the best educational interest of the
15 student, and the burden of proof shall rest on the objecting local board of
16 education to demonstrate that the determination of the parent is not in the
17 best interests of the student;

18 (f) If the number of nonresident applicants exceeds the capacity of the virtual
19 school program, the program shall first admit nonresident siblings of
20 resident enrollees and nonresident children of the local district's employees.
21 The program shall then conduct a lottery to determine the remaining
22 enrollment; and

23 (g) A nonresident student enrolled in a local program may remain enrolled in
24 the virtual school program without a new application, as long as the
25 authorizing district continues to operate the program.

26 (3) Certified staff employed in the virtual school program shall meet all certification
27 requirements established by the Education Professional Standards Board as is

1 applicable to any other teacher or administrator employed in Kentucky's public
2 schools.

3 (4) No certified or classified staff person employed by an authorizing district shall be
4 reassigned to a virtual school program as part of any disciplinary action taken
5 pursuant to KRS 161.011 or 161.790 as part of a corrective action plan
6 established pursuant to the local district evaluation plan.

7 (5) (a) A local board of education shall adopt a policy to govern to what extent a
8 student who is enrolled in a virtual school program and is a resident of the
9 local board of education's school district may participate in the local school
10 district's extracurricular activities.

11 (b) If a local board of education allows students enrolled in a virtual school
12 program to participate in the local school district's extracurricular
13 programs and interscholastic competitions, then the student shall be
14 considered eligible to participate in those extracurricular programs and
15 interscholastic competitions by the Kentucky Board of Education or the
16 agency designated by the state board to manage interscholastic athletics, if
17 other eligibility requirements are met.

18 (6) Notwithstanding KRS 158.070 or any other statute to the contrary, a virtual
19 school program shall only be required to provide instruction equivalent to a
20 student instructional year of one thousand sixty-two (1,062) hours. The
21 authorizing board shall have flexibility in developing a calendar and schedule to
22 meet this instructional requirement.

23 (7) A virtual school program shall be subject to the same statewide academic content,
24 assessment, and accountability requirements as any other school under state law
25 and shall be treated as any other school within the authorizing district.

26 (8) An authorizing board may contract with an education service provider for
27 curriculum, technical support, professional development, education

1 management, school design, educational design, implementation, or
2 comprehensive management.

3 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) The average daily attendance of a virtual school program for purposes of Support
6 Education Excellence in Kentucky program funding shall be calculated in
7 compliance with administrative regulations promulgated by the Kentucky Board
8 of Education.

9 (2) Administrative regulations promulgated by the Kentucky Board of Education
10 under subsection (1) of this section shall be based on a student participating in all
11 the student's courses during an attendance day and shall comply with all
12 provisions of this section.

13 (3) For determining attendance, participation in a course shall be based on evidence
14 that includes but is not limited to documentation of:

15 (a) A student attending a live lesson from a teacher;

16 (b) A student logging into a lesson or lesson activity;

17 (c) A student and teacher engaging in a subject-oriented conversation through
18 telephone or other communicative technology;

19 (d) An e-mail dialogue between the pupil and teacher;

20 (e) Activity or work being completed between the student and teacher; or

21 (f) Any other measure of attendance as determined by the Kentucky Board of
22 Education.

23 (4) If a student is absent on an attendance day, the student may offset the absence by
24 attending and participating in the necessary courses for the necessary amount of
25 time within the following ten (10) attendance days if the absence was unexcused,
26 or within the next thirty (30) calendar days if the absence was excused.

27 (5) (a) Whenever a student enrolled in a program fails to respond appropriately

1 within five (5) attendance days to an assignment or directive from
 2 instructional staff, the program shall notify the parent of the student.

3 (b) Upon the third time in an academic semester a student enrolled in a
 4 program fails to respond appropriately within five (5) attendance days to an
 5 assignment or directive from instructional staff:

6 1. The program shall also notify the authorizing district and the local
 7 school district of which the student is a resident; and

8 2. The authorizing board may remove the student from the program.

9 (c) If the authorizing board seeks to remove a student from the program under
 10 this subsection, then prior to acting:

11 1. The authorizing board shall give notice to the parent of the student ten
 12 (10) days before taking action; and

13 2. The parent of the student shall have an opportunity to be heard before
 14 the authorizing board;

15 (6) Enrollment and participation of a student in a program authorized under Section
 16 3 of this Act shall satisfy the compulsory attendance requirements of KRS
 17 Chapter 159, and the student shall be exempt from any requirements of KRS
 18 Chapters 157, 158, 159, 160, 161, and 162 requiring physical presence in a
 19 classroom or at a school, with the exception of provisions relating to mandatory
 20 testing and accountability.

21 ➔Section 6. KRS 157.350 is amended to read as follows:

22 Each district which meets the following requirements shall be eligible to share in the
 23 distribution of funds from the fund to support education excellence in Kentucky:

24 (1) Employs and compensates all teachers for not less than one hundred eighty-five
 25 (185) days. The Kentucky Board of Education, upon recommendation of the
 26 commissioner of education, shall prescribe procedures by which this requirement
 27 may be reduced during any year for any district which employs teachers for less

- 1 than one hundred and eighty-five (185) days, in which case the eligibility of a
2 district for participation in the public school fund shall be in proportion to the
3 length of time teachers actually are employed;
- 4 (2) Operates all schools for a minimum school term as provided in KRS 158.070 and
5 administrative regulations of the Kentucky Board of Education. If the school term is
6 less than one hundred eighty-five (185) days, including not less than one hundred
7 seventy (170) student attendance days as defined in KRS 158.070 or one thousand
8 sixty-two (1,062) hours of instructional time, for any reason not approved by the
9 Kentucky Board of Education on recommendation of the commissioner, the
10 eligibility of a district for participation in the public school fund shall be in
11 proportion to the length of term the schools actually operate;
- 12 (3) Compensates all teachers on the basis of a single salary schedule and in conformity
13 with the provisions of KRS 157.310 to 157.440;
- 14 (4) Includes no nonresident pupils in its average daily attendance, except:
- 15 (a) 1. Pupils listed under a written agreement, which may be for multiple
16 years, with the district of the pupils' legal residence.
- 17 2. If an agreement cannot be reached, either board may appeal to the
18 commissioner for settlement of the dispute.
- 19 3. The commissioner shall have thirty (30) days to resolve the dispute.
20 Either board may appeal the commissioner's decision to the Kentucky
21 Board of Education.
- 22 4. The commissioner and the Kentucky Board of Education shall consider
23 the factors affecting the districts, including but not limited to academic
24 performance and the impact on programs, school facilities,
25 transportation, and staffing of the districts.
- 26 5. The Kentucky Board of Education shall have sixty (60) days to approve
27 or amend the decision of the commissioner; ~~and~~

1 (b) A nonresident pupil who attends a district in which a parent of the pupil is
2 employed. All tuition fees required of a nonresident pupil may be waived for a
3 pupil who meets the requirements of this paragraph; and

4 (c) A nonresident pupil who attends a virtual school program through the
5 Digital Learning and Workforce Development Pilot Program established
6 under Sections 1 to 5 of this Act.

7 This subsection does not apply to those pupils enrolled in an approved class
8 conducted in a hospital and pupils who have been expelled for behavioral reasons
9 who shall be counted in average daily attendance under KRS 157.320;

10 (5) Any secondary school which maintains a basketball team for boys for other than
11 intramural purposes, shall maintain the same program for girls;

12 (6) Any school district which fails to comply with subsection (5) of this section shall be
13 prohibited from participating in varsity competition in any sport for one (1) year.
14 Determination of failure to comply shall be made by the Department of Education
15 after a hearing requested by any person within the school district. The hearing shall
16 be conducted in accordance with KRS Chapter 13B. A district under this subsection
17 shall, at the hearing, have an opportunity to show inability to comply.

18 ➔Section 7. If any provision of this Act or the application thereof to any person or
19 circumstance is held invalid, the invalidity shall not affect other provisions or
20 applications of the Act that can be given effect without the invalid provision or
21 application, and to this end the provisions of this Act are severable.