

1 AN ACT relating to school policies.

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

3 ➔Section 1. KRS 160.380 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Alternative education program" means a program that exists to meet the
6 needs of students that cannot be addressed in a traditional classroom setting
7 but through the assignment of students to alternative classrooms, centers, or
8 campuses that are designed to remediate academic performance, improve
9 behavior, or provide an enhanced learning experience. Alternative education
10 programs do not include career or technical centers or departments;

11 (b) **"Clear CA/N check" means a letter from the Cabinet for Health and**
12 **Family Services indicating that there are no substantiated findings of child**
13 **abuse or neglect relating to a specific individual;**

14 (c) "Contractor" means an adult who is permitted access to school grounds
15 pursuant to a written~~current or prospective~~ contractual agreement with the
16 school, school board, school district, or school-affiliated entity, **for the**
17 **purpose of providing services directly to a student or students as part of a**
18 **school-sponsored program or activity on a regularly scheduled and**
19 **continuing basis**~~[at times when students are present.] The term "contractor"~~
20 includes an employee of a contractor;

21 (d)~~(e)~~ "Relative" means father, mother, brother, sister, husband, wife, son and
22 daughter; and

23 (e)~~(d)~~ "Vacancy" means any certified position opening created by the
24 resignation, dismissal, nonrenewal of contract, transfer, or death of a certified
25 staff member of a local school district, or a new position created in a local
26 school district for which certification is required. However, if an employer-
27 employee bargained contract contains procedures for filling certified position

1 openings created by the resignation, dismissal, nonrenewal of contract,
2 transfer, or death of a certified staff member, or creation of a new position for
3 which certification is required, a vacancy shall not exist, unless certified
4 positions remain open after compliance with those procedures.

5 (2) Except as provided in KRS 160.346, *the school district personnel actions*
6 *identified in this section shall be carried out as follows:*

7 (a) All appointments, promotions, and transfers of principals, supervisors,
8 teachers, and other public school employees shall be made only by the
9 superintendent of schools, who shall notify the board of the action taken. All
10 employees of the local district shall have the qualifications prescribed by law
11 and by the administrative regulations of the Kentucky Board of Education and
12 of the employing board. Supervisors, principals, teachers, and other
13 employees may be appointed by the superintendent for any school year at any
14 time after February 1 preceding the beginning of the school year. No
15 superintendent of schools shall appoint or transfer himself or herself to
16 another position within the school district;

17 (b) When a vacancy occurs in a local school district, the superintendent shall
18 notify the chief state school officer fifteen (15) days before the position shall
19 be filled. The chief state school officer shall keep a registry of local district
20 vacancies which shall be made available to the public. The local school
21 district shall post position openings in the local board office for public
22 viewing;

23 (c) When a vacancy needs to be filled in less than fifteen (15) days' time to
24 prevent disruption of necessary instructional or support services of the school
25 district, the superintendent may seek a waiver from the chief state school
26 officer. If the waiver is approved, the appointment shall not be made until the
27 person recommended for the position has been approved by the chief state

1 school officer. The chief state school officer shall respond to a district's
 2 request for waiver or for approval of an appointment within two (2) working
 3 days; **and**

4 (d) When a vacancy occurs in a local district, the superintendent shall conduct a
 5 search to locate minority teachers to be considered for the position. The
 6 superintendent shall, pursuant to administrative regulations of the Kentucky
 7 Board of Education, report annually the district's recruitment process and the
 8 activities used to increase the percentage of minority teachers in the district.[:]

9 **(3) Restrictions on employment of relatives shall be as follows:**

10 ~~(a)(e)~~ No relative of a superintendent of schools shall be an employee of the
 11 school district. However, this shall not apply to a relative who is a classified
 12 or certified employee of the school district for at least thirty-six (36) months
 13 prior to the superintendent assuming office~~[-, or prior to marrying a relative of~~
 14 ~~the superintendent.]~~ and who is qualified for the position the employee holds.
 15 A superintendent's spouse who has previously been employed in a school
 16 system may be an employee of the school district. A superintendent's spouse
 17 who is employed under this provision shall not hold a position in which the
 18 spouse supervises certified or classified employees. A superintendent's spouse
 19 may supervise teacher aides and student teachers. However, the
 20 superintendent shall not promote a relative who continues employment under
 21 an exception of this subsection;

22 ~~(b)(f)~~ No superintendent shall employ a relative of a school board member of
 23 the district~~[-, unless on July 13, 1990, the board member's relative is an~~
 24 ~~employee of the district, the board member is holding office, and the relative~~
 25 ~~was not initially hired by the district during the tenure of the board member. A~~
 26 ~~relative employed in 1989-90 and initially hired during the tenure of a board~~
 27 ~~member serving on July 13, 1990, may continue to be employed during the~~

1 remainder of the board member's term. However, the superintendent shall not
 2 promote any relative of a school board member who continues employment
 3 under the exception of this subsection];

4 ~~(c)~~~~(g)~~—1.] No principal's relative shall be employed in the principal's school[,
 5 except a relative who is not the principal's spouse and who was employed in
 6 the principal's school during the 1989-90 school year.

7 2.—No spouse of a principal shall be employed in the principal's school,
 8 except:

9 a.—A principal's spouse who was employed in the principal's school
 10 during the 1989-90 school year for whom there is no position for
 11 which the spouse is certified to fill in another school operated in
 12 the district; or

13 b.—A principal's spouse who was employed in the 1989-90 school year
 14 and is in a school district containing no more than one (1)
 15 elementary school, one (1) middle school, and one (1) high school.

16 3.—A principal's spouse who is employed in the principal's school shall be
 17 evaluated by a school administrator other than the principal.

18 4.—The provisions of KRS 161.760 shall not apply to any transfer made in
 19 order to comply with the provisions of this paragraph]; and

20 ~~(d)~~~~(h)~~ A relative that is ineligible for employment under paragraph (a), (b), or
 21 ~~(c)~~~~(e), (f), or (g)~~ of this subsection may be employed as a substitute for a
 22 certified or classified employee if the relative is not:

- 23 1. A regular full-time or part-time employee of the district;
- 24 2. Accruing continuing contract status or any other right to continuous
 25 employment;
- 26 3. Receiving fringe benefits other than those provided other substitutes or
- 27 4. Receiving preference in employment or assignment over other

1 substitutes.

2 ~~(4)~~~~(3)~~ No superintendent shall assign a certified or classified staff person to an
3 alternative education program as part of any disciplinary action taken pursuant to
4 KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to
5 the local district evaluation plan.

6 ~~(5)~~~~(4)~~ No superintendent shall ***initially*** employ in any position in the district any
7 person who is a violent offender or has been convicted of a sex crime as defined by
8 KRS 17.165 which is classified as a felony or persons with a substantiated finding
9 of child abuse or neglect in records maintained by the Cabinet for Health and
10 Family Services. The superintendent may employ, at his discretion, except at a
11 Kentucky Educational Collaborative for State Agency Children program, persons
12 convicted of sex crimes classified as a misdemeanor.

13 ~~(6)~~~~(5)~~ **Requirements for background checks shall be as follows:**

14 (a) A superintendent shall require **each new certified hire, new classified hire,**
15 **nonfaculty coach as defined under KRS 161.185, and student teacher to**
16 **submit to** a national and state criminal background check and ~~have~~~~require~~ a
17 **clear CA/N check**~~letter~~, provided by the individual~~, from the Cabinet for~~
18 ~~Health and Family Services indicating the individual is clear to hire based on~~
19 ~~no findings of substantiated child abuse or neglect found through a~~
20 ~~background check of child abuse and neglect records maintained by the~~
21 ~~Cabinet for Health and Family Services on all new certified hires in the school~~
22 ~~district and student teachers assigned within the district]. Excluded are~~
23 certified individuals who were employed in another certified position in a
24 Kentucky school district within six (6) months of the date of hire and who had
25 previously submitted to a national and state criminal background check and
26 who have a **clear CA/N check**~~letter, provided by the individual, from the~~
27 ~~Cabinet for Health and Family Services stating the employee is clear to hire~~

1 based on no findings of substantiated child abuse or neglect found through a
2 background check of child abuse and neglect records maintained by the
3 Cabinet for Health and Family Services} for the previous employment. {

4 ~~(b) The superintendent shall require that each new certified hire and student~~
5 ~~teacher, as set forth in paragraph (a) of this subsection, submit to a national~~
6 ~~and state criminal history background check by the Department of Kentucky~~
7 ~~State Police and the Federal Bureau of Investigation and have a letter,~~
8 ~~provided by the individual, from the Cabinet for Health and Family Services~~
9 ~~stating the employee is clear to hire based on no findings of substantiated~~
10 ~~child abuse or neglect found through a background check of child abuse and~~
11 ~~neglect records maintained by the Cabinet for Health and Family Services.~~

12 ~~(c) All fingerprints requested under this section shall be on an applicant~~
13 ~~fingerprint card provided by the Department of Kentucky State Police. The~~
14 ~~fingerprint cards shall be forwarded to the Federal Bureau of Investigation~~
15 ~~from the Department of Kentucky State Police after a state criminal~~
16 ~~background check is conducted. The results of the state and federal criminal~~
17 ~~background check shall be sent to the hiring superintendent. Any fee charged~~
18 ~~by the Department of Kentucky State Police, the Federal Bureau of~~
19 ~~Investigation, and the Cabinet for Health and Family Services shall be an~~
20 ~~amount no greater than the actual cost of processing the request and~~
21 ~~conducting the search.~~

22 ~~(d)]The Education Professional Standards Board may promulgate administrative~~
23 ~~regulations to impose additional qualifications to meet the requirements of~~
24 ~~Public Law 92-544.~~

25 ~~{(6) (a) A superintendent shall require a national and state criminal background check~~
26 ~~and require a letter, provided by the individual, from the Cabinet for Health~~
27 ~~and Family Services stating the employee is clear to hire based on no findings~~

1 of substantiated child abuse or neglect found through a background check of
2 child abuse and neglect records maintained by the Cabinet for Health and
3 Family Services on all classified initial hires.

4 (b) The superintendent shall require that each classified initial hire submit to a
5 national and state criminal history background check by the Department of
6 Kentucky State Police and require a letter, provided by the individual, from
7 the Cabinet for Health and Family Services stating the employee is clear to
8 hire based on no findings of substantiated child abuse or neglect found
9 through a background check of child abuse and neglect records maintained by
10 the Cabinet for Health and Family Services.

11 (c) Any request for any criminal background records under this section shall be
12 on an applicant fingerprint card provided by the Department of Kentucky
13 State Police. The results of the state criminal background check and the results
14 of the national criminal history background check, if requested under
15 paragraph (b) of this subsection, shall be sent to the hiring superintendent.
16 Any fee charged by the Department of Kentucky State Police and the Cabinet
17 for Health and Family Services shall be an amount no greater than the actual
18 cost of processing the request and conducting the search.]

19 (b)(7) (a) The superintendent shall require a contractor **and all school-based**
20 **decision-making council parent members** [who works on school premises
21 during school hours and may require a contractor who does not have contact
22 with students, a volunteer, or a visitor] to submit to a national and state
23 criminal history background check by the Department of Kentucky State
24 Police and the Federal Bureau of Investigation and have a **clear CA/N**
25 **check** [letter], provided by the individual [from the Cabinet for Health and
26 Family Services stating the employee is clear to hire based on no findings of
27 substantiated child abuse or neglect found through a background check of

1 child abuse and neglect records maintained by the Cabinet for Health and
 2 Family Services]. ***A parent member may serve prior to the receipt of the***
 3 ***criminal history background check and CA/N letter, but shall be removed***
 4 ***from the council on receipt by the school district of a report documenting a***
 5 ***record of abuse or neglect, of a sex crime or criminal offense against a***
 6 ***victim who is a minor as defined in KRS 17.500, or as a violent offender as***
 7 ***defined in KRS 17.165, and no further procedures shall be required.***

8 ~~[(b) Any request for records under this section shall be on an applicant fingerprint~~
 9 ~~card provided by the Department of Kentucky State Police. If requested, the~~
 10 ~~results of the state criminal background check and the results of the national~~
 11 ~~criminal history background check and a letter, provided by the individual,~~
 12 ~~from the Cabinet for Health and Family Services stating the employee is clear~~
 13 ~~to hire based on no findings of substantiated child abuse or neglect found~~
 14 ~~through the results of a background check of child abuse and neglect records~~
 15 ~~maintained by the Cabinet for Health and Family Services shall be sent to the~~
 16 ~~hiring superintendent. Any fee charged by the Department of Kentucky State~~
 17 ~~Police and the Cabinet for Health and Family Services shall be an amount no~~
 18 ~~greater than the actual cost of processing the request and conducting the~~
 19 ~~search.]~~

20 ***(c) The superintendent may require a volunteer or a visitor to submit to a***
 21 ***national and state criminal history background check by the Department of***
 22 ***Kentucky State Police and the Federal Bureau of Investigation and have a***
 23 ***clear CA/N check, provided by the individual.***

24 ***(Z) [(8) (a) If [a school term has begun and] a certified or classified position remains***
 25 ***unfilled ***after July 31*** or if a vacancy occurs during a school term, a***
 26 ***superintendent may employ an individual, who will have supervisory or***
 27 ***disciplinary authority over minors, on probationary status pending receipt of***

1 the criminal history background check and ~~[have]~~ a clear CA/N check~~[letter]~~,
2 provided by the individual~~], from the Cabinet for Health and Family Services~~
3 ~~stating the employee is clear to hire based on no findings of substantiated~~
4 ~~child abuse or neglect found through a background check of child abuse and~~
5 ~~neglect records maintained by the Cabinet for Health and Family Services]~~.
6 Application for the criminal record and a request for a clear CA/N check~~[~~
7 ~~letter, provided by the individual, from the Cabinet for Health and Family~~
8 ~~Services stating the employee is clear to hire based on no findings of~~
9 ~~substantiated child abuse or neglect found through a background check of~~
10 ~~child abuse and neglect records maintained by the Cabinet for Health and~~
11 ~~Family Services]~~ of a probationary employee shall be made no later than the
12 date probationary employment begins.

13 (b) Employment shall be contingent on the receipt of the criminal history
14 background check documenting that the probationary employee has no record
15 of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt
16 of a letter, provided by the individual, from the Cabinet for Health and Family
17 Services stating the employee is clear to hire based on no findings of
18 substantiated child abuse or neglect found through a background check of
19 child abuse and neglect records maintained by the Cabinet for Health and
20 Family Services.

21 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,
22 probationary employment under this section shall terminate on receipt by the
23 school district of a criminal history background check documenting a record
24 of a sex crime or as a violent offender as defined in KRS 17.165 and no
25 further procedures shall be required.

26 (d) The provisions of KRS 161.790 shall apply to terminate employment of a
27 certified employee on the basis of a criminal record other than a record of a

1 sex crime or as a violent offender as defined in KRS 17.165, or on the basis
2 of a CA/N check showing substantiation of child abuse or neglect.

3 ~~(8)~~~~(9)~~ (a) All fingerprints requested under this section shall be on an applicant
4 fingerprint card provided by the Department of Kentucky State Police. The
5 fingerprint cards shall be forwarded to the Federal Bureau of Investigation
6 from the Department of Kentucky State Police after a state criminal
7 background check is conducted. The results of the state and federal
8 criminal background check shall be sent to the hiring superintendent. Any
9 fee charged by the Department of Kentucky State Police, the Federal
10 Bureau of Investigation, and the Cabinet for Health and Family Services
11 shall be an amount no greater than the actual cost of processing the request
12 and conducting the search.~~[Each application or renewal form, provided by the~~

13 employer to an applicant for a classified position, shall conspicuously state the
14 following: "~~FOR THIS TYPE OF EMPLOYMENT, STATE LAW~~
15 ~~REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK~~
16 ~~AND HAVE A LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE~~
17 ~~CABINET FOR HEALTH AND FAMILY SERVICES STATING THE~~
18 ~~EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF~~
19 ~~SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A~~
20 ~~BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS~~
21 ~~MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY~~
22 ~~SERVICES AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN~~
23 ~~CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY~~
24 ~~BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF~~
25 ~~EMPLOYMENT]."~~

26 (b) Each application or renewal form, provided by the employer to an applicant
27 for a certified or classified position, shall conspicuously state the following:

1 "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A
2 NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND
3 CHECK AND~~[HAVE]~~ A LETTER, PROVIDED BY THE INDIVIDUAL,
4 FROM THE CABINET FOR HEALTH AND FAMILY SERVICES
5 STATING THE APPLICANT HAS~~[EMPLOYEE IS CLEAR TO HIRE~~
6 ~~BASED ON]~~ NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR
7 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD
8 ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET
9 FOR HEALTH AND FAMILY SERVICES~~[AS A CONDITION OF~~
10 ~~EMPLOYMENT]."~~

- 11 (c) Each application form for a district position shall require the applicant to:
- 12 1. Identify the states in which he or she has maintained residency,
13 including the dates of residency; and
 - 14 2. Provide picture identification.

15 ~~[(10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a~~
16 ~~nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.]~~

17 ~~[(11) (a) A school-based decision-making council parent member, as defined under~~
18 ~~KRS 160.345, shall submit to a state and national fingerprint-supported~~
19 ~~criminal history background check by the Department of Kentucky State~~
20 ~~Police and the Federal Bureau of Investigation and have a letter, provided by~~
21 ~~the individual, from the Cabinet for Health and Family Services stating the~~
22 ~~employee is clear to hire based on no findings of substantiated child abuse or~~
23 ~~neglect found through a background check of child abuse and neglect records~~
24 ~~maintained by the Cabinet for Health and Family Services.~~

25 ~~(b) The results of the state criminal history background check and the results of~~
26 ~~the national criminal history background check, if requested, and a letter,~~
27 ~~provided by the individual, from the Cabinet for Health and Family Services~~

1 ~~stating the employee is clear to hire based on no findings of substantiated~~
2 ~~child abuse or neglect found through the results of a background check of~~
3 ~~child abuse and neglect records maintained by the Cabinet for Health and~~
4 ~~Family Services shall be sent to the district superintendent. Any fee charged~~
5 ~~by the Department of Kentucky State Police and the Cabinet for Health and~~
6 ~~Family Services shall be an amount no greater than the actual cost of~~
7 ~~processing the request and conducting the search. A parent member may serve~~
8 ~~prior to the receipt of the criminal history background check report but shall~~
9 ~~be removed from the council on receipt by the school district of a report~~
10 ~~documenting a record of a sex crime or criminal offense against a victim who~~
11 ~~is a minor as defined in KRS 17.500 or as a violent offender as defined in~~
12 ~~KRS 17.165, and no further procedures shall be required.]~~

13 (9)~~[(12)]~~ Notwithstanding any provision of the Kentucky Revised Statutes to the
14 contrary, when an employee of the school district is charged with any offense which
15 is classified as a felony, the superintendent may transfer the employee to a second
16 position until such time as the employee is found not guilty, the charges are
17 dismissed, the employee is terminated, or the superintendent determines that further
18 personnel action is not required. The employee shall continue to be paid at the same
19 rate of pay he or she received prior to the transfer. If an employee is charged with an
20 offense outside of the Commonwealth, this provision may also be applied if the
21 charge would have been treated as a felony if committed within the Commonwealth.
22 Transfers shall be made to prevent disruption of the educational process and district
23 operations and in the interest of students and staff and shall not be construed as
24 evidence of misconduct.

25 (10)~~[(13)]~~ Notwithstanding any law to the contrary, each certified and classified
26 employee of the school district shall notify the superintendent if he or she has been
27 found by the Cabinet for Health and Family Services to have abused or neglected a

1 child, and if he or she has waived the right to appeal a substantiated finding of child
 2 abuse or neglect or if the substantiated incident was upheld upon appeal. Any
 3 failure to report this finding shall result in the certified or classified employee being
 4 subject to dismissal or termination.

5 ~~(11)(14)~~ The form for requesting a CA/N check ~~[letter, required by this section, stating~~
 6 ~~an employee is clear to hire based on a background check of child abuse and neglect~~
 7 ~~records maintained by the Cabinet for Health and Family Services]~~ shall be made
 8 available on the Cabinet for Health and Family Services Web site.

9 ➔Section 2. KRS 160.151 is amended to read as follows:

- 10 (1) (a) 1. A private, parochial, or church school that has voluntarily been certified
 11 by the Kentucky Board of Education in accordance with KRS
 12 156.160(3) may require a national and state criminal background check
 13 and require a clear CA/N check, as defined in Section (1) of this
 14 Act, ~~[letter from the Cabinet for Health and Family Services stating that~~
 15 ~~the person has no findings of substantiated child abuse or neglect found~~
 16 ~~through a background check of child abuse and neglect records~~
 17 ~~maintained by the Cabinet for Health and Family Services]~~ on all new
 18 certified hires in the school and student teachers assigned to the school
 19 and may require a new national and state criminal background check and
 20 require a clear CA/N check ~~[letter from the Cabinet for Health and~~
 21 ~~Family Services stating that the person has no findings of substantiated~~
 22 ~~child abuse or neglect found through a background check of child abuse~~
 23 ~~and neglect records maintained by the Cabinet for Health and Family~~
 24 ~~Services]~~ on each certified teacher once every five (5) years of
 25 employment.
- 26 2. Certified individuals who were employed in another certified position in
 27 a Kentucky school within six (6) months of the date of the hire and who

1 had previously submitted to a national and state criminal background
2 check and require a clear CA/N check~~[letter from the Cabinet for Health~~
3 ~~and Family Services stating that the person has no findings of~~
4 ~~substantiated child abuse or neglect found through a background check~~
5 ~~of child abuse and neglect records maintained by the Cabinet for Health~~
6 ~~and Family Services]~~ for previous employment may be excluded from
7 the initial national or state criminal background checks.

8 (b) The national criminal history background check shall be conducted by the
9 Federal Bureau of Investigation. The state criminal history background check
10 shall be conducted by the Department of Kentucky State Police or the
11 Administrative Office of the Courts.

12 (c) All fingerprints requested under this section shall be on an applicant
13 fingerprint card provided by the Department of Kentucky State Police. The
14 fingerprint cards shall be forwarded to the Federal Bureau of Investigation by
15 the Department of Kentucky State Police after a state criminal background
16 check has been conducted. Any fee charged by the Department of Kentucky
17 State Police, the Administrative Office of the Courts, or the Federal Bureau of
18 Investigation shall be an amount no greater than the actual cost of processing
19 the request and conducting the search.

20 (2) If a school requires a criminal background check or requires a clear CA/N
21 check~~[letter from the Cabinet for Health and Family Services stating that the person~~
22 ~~has no findings of substantiated child abuse or neglect found through a background~~
23 ~~check of child abuse and neglect records maintained by the Cabinet for Health and~~
24 ~~Family Services]~~ for a new hire, the school shall conspicuously include the
25 following disclosure statement on each application or renewal form provided by the
26 employer to an applicant for a certified position: "STATE LAW AUTHORIZES
27 THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND

1 CHECK AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY
2 SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO
3 FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND
4 THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT
5 RECORDS AS A CONDITION OF EMPLOYMENT FOR THIS TYPE OF
6 POSITION."

7 (a) For purposes of this subsection, "contractor" means an adult who is permitted
8 access to school grounds pursuant to a written~~[current or prospective]~~
9 contractual agreement with the school, school board, school district, or
10 school-affiliated entity, for the purpose of providing services directly to a
11 student or students as part of a school-sponsored program or activity on a
12 regularly scheduled and continuing basis~~[at times when students are~~
13 ~~present]~~. The term "contractor" includes an employee of a contractor.

14 (b) 1. The school or school board may require a contractor who works on
15 school premises during school hours and may require a contractor who
16 does not have contact with students, a volunteer, or a visitor to submit to
17 a national criminal history check by the Federal Bureau of Investigation
18 and state criminal history background check by the Department of
19 Kentucky State Police or Administrative Office of the Courts and
20 require a clear CA/N check~~[letter from the Cabinet for Health and~~
21 ~~Family Services stating that the person has no findings of substantiated~~
22 ~~child abuse or neglect found through a background check of child abuse~~
23 ~~and neglect records maintained by the Cabinet for Health and Family~~
24 ~~Services]~~.

25 2. Any request for records from the Department of Kentucky State Police
26 under this section shall be on an applicant fingerprint card provided by
27 the Department of Kentucky State Police if required. The results of the

1 state criminal background check and the results of the national criminal
2 history background check, if requested, shall be sent to the hiring
3 superintendent. If a background check of child abuse and neglect records
4 is requested, the person seeking employment shall provide to the hiring
5 superintendent a clear CA/N check~~[letter from the Cabinet for Health~~
6 ~~and Family Services stating the person has no findings of substantiated~~
7 ~~child abuse or neglect found through a background check of child abuse~~
8 ~~and neglect records maintained by the Cabinet for Health and Family~~
9 ~~Services].~~

10 3. Any fee charged by the Department of Kentucky State Police shall be an
11 amount no greater than the actual cost of processing the request and
12 conducting the search.

13 (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter
14 may choose not to employ any person who is a violent offender as defined by
15 KRS 17.165(2), has been convicted of a sex crime which is classified as a
16 felony as defined by KRS 17.165(1), or has committed a violent crime as
17 defined in KRS 17.165(3) or persons with a substantiated finding of child
18 abuse or neglect in records maintained by the Cabinet for Health and Family
19 Services. A nonpublic school may employ, at its discretion, persons convicted
20 of sex crimes classified as a misdemeanor.

21 (b) If a school term has begun and a certified position remains unfilled or if a
22 vacancy occurs during a school term, a nonpublic school implementing this
23 chapter may employ an individual who will have supervisory or disciplinary
24 authority over minors on probationary status pending receipt of a criminal
25 history background check or the receipt of a clear CA/N check~~[letter],~~
26 ~~provided by the individual[, from the Cabinet for Health and Family Services~~
27 ~~stating that the person has no findings of substantiated child abuse or neglect~~

1 ~~found through a background check of child abuse and neglect records~~
2 ~~maintained by the Cabinet for Health and Family Services}.~~

3 (c) Employment at a nonpublic school implementing this chapter may be
4 contingent on the receipt of a criminal history background check documenting
5 a record as a violent offender, of a sex crime, or of a violent crime as defined
6 in KRS 17.165 or the receipt of a clear CA/N check~~[letter]~~, provided by the
7 individual~~[, from the Cabinet for Health and Family Services stating that the~~
8 ~~person has no findings of substantiated child abuse or neglect found through a~~
9 ~~background check of child abuse and neglect records maintained by the~~
10 ~~Cabinet for Health and Family Services}.~~

11 (d) Nonpublic schools implementing this chapter may terminate probationary
12 employment under this section upon receipt of a criminal history background
13 check documenting a record as a violent offender, of a sex crime, or of a
14 violent crime as defined in KRS 17.165 or the receipt of a clear CA/N
15 check~~[letter, provided by the individual, from the Cabinet for Health and~~
16 ~~Family Services stating that the person has no findings of substantiated child~~
17 ~~abuse or neglect found through a background check of child abuse and neglect~~
18 ~~records maintained by the Cabinet for Health and Family Services}.~~

19 (4) The form for requesting a clear CA/N check~~[letter, required by this section, stating~~
20 ~~an employee is clear to hire based on a background check of child abuse and neglect~~
21 ~~records maintained by the Cabinet for Health and Family Services} shall be made~~
22 available on the Cabinet for Health and Family Services Web site.

23 ➔Section 3. KRS 160.345 is amended to read as follows:

24 (1) For the purpose of this section:

25 (a) "Minority" means American Indian; Alaskan native; African-American;
26 Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or
27 South American origin; Pacific islander; or other ethnic group

1 underrepresented in the school;

2 (b) "School" means an elementary or secondary educational institution that is
3 under the administrative control of a principal and is not a program or part of
4 another school. The term "school" does not include district-operated schools
5 that are:

6 1. Exclusively vocational-technical, special education, or preschool
7 programs;

8 2. Instructional programs operated in institutions or schools outside of the
9 district; or

10 3. Alternative schools designed to provide services to at-risk populations
11 with unique needs;

12 (c) "Teacher" means any person for whom certification is required as a basis of
13 employment in the public schools of the state, with the exception of principals
14 and assistant principals; and

15 (d) "Parent" means:

16 1. A parent, stepparent, or foster parent of a student; or

17 2. A person who has legal custody of a student pursuant to a court order
18 and with whom the student resides.

19 (2) Each local board of education shall adopt a policy for implementing school-based
20 decision making in the district which shall include, but not be limited to, a
21 description of how the district's policies, including those developed pursuant to
22 KRS 160.340, have been amended to allow the professional staff members of a
23 school to be involved in the decision making process as they work to meet
24 educational goals established in KRS 158.645 and 158.6451. The policy may
25 include a requirement that each school council make an annual report at a public
26 meeting of the board describing the school's progress in meeting the educational
27 goals set forth in KRS 158.6451 and district goals established by the board. The

1 policy shall also address and comply with the following:

2 (a) Except as provided in paragraph (b)2. of this subsection, each participating
3 school shall form a school council composed of two (2) parents, three (3)
4 teachers, and the principal or administrator. The membership of the council
5 may be increased, but it may only be increased proportionately. A parent
6 representative on the council shall not be an employee or a relative of an
7 employee of the school in which that parent serves, nor shall the parent
8 representative be an employee or a relative of an employee in the district
9 administrative offices. A parent representative shall not be a local board
10 member or a board member's spouse. None of the members shall have a
11 conflict of interest pursuant to KRS Chapter 45A, except the salary paid to
12 district employees;

13 (b) 1. The teacher representatives shall be elected for one (1) year terms by a
14 majority of the teachers. A teacher elected to a school council shall not
15 be involuntarily transferred during his or her term of office. The parent
16 representatives shall be elected for one (1) year terms. The parent
17 members shall be elected by the parents of students preregistered to
18 attend the school during the term of office in an election conducted by
19 the parent and teacher organization of the school or, if none exists, the
20 largest organization of parents formed for this purpose. A school
21 council, once elected, may adopt a policy setting different terms of
22 office for parent and teacher members subsequently elected. The
23 principal shall be the chair of the school council.

24 2. School councils in schools having eight percent (8%) or more minority
25 students enrolled, as determined by the enrollment on the preceding
26 October 1, shall have at least one (1) minority member. If the council
27 formed under paragraph (a) of this subsection does not have a minority

- 1 member, the principal, in a timely manner, shall be responsible for
2 carrying out the following:
- 3 a. Organizing a special election to elect an additional member. The
4 principal shall call for nominations and shall notify the parents of
5 the students of the date, time, and location of the election to elect a
6 minority parent to the council by ballot; and
- 7 b. Allowing the teachers in the building to select one (1) minority
8 teacher to serve as a teacher member on the council. If there are no
9 minority teachers who are members of the faculty, an additional
10 teacher member shall be elected by a majority of all teachers. Term
11 limitations shall not apply for a minority teacher member who is
12 the only minority on faculty;
- 13 (c) 1. The school council shall have the responsibility to set school policy
14 consistent with district board policy which shall provide an environment
15 to enhance the students' achievement and help the school meet the goals
16 established by KRS 158.645 and 158.6451. The principal shall be the
17 primary administrator and the instructional leader of the school, and
18 with the assistance of the total school staff shall administer the policies
19 established by the school council and the local board.
- 20 2. If a school council establishes committees, it shall adopt a policy to
21 facilitate the participation of interested persons, including, but not
22 limited to, classified employees and parents. The policy shall include the
23 number of committees, their jurisdiction, composition, and the process
24 for membership selection;
- 25 (d) The school council and each of its committees shall determine the frequency
26 of and agenda for their meetings. Matters relating to formation of school
27 councils that are not provided for by this section shall be addressed by local

1 board policy;

2 (e) The meetings of the school council shall be open to the public and all
3 interested persons may attend. However, the exceptions to open meetings
4 provided in KRS 61.810 shall apply;

5 (f) After receiving notification of the funds available for the school from the local
6 board, the school council shall determine, within the parameters of the total
7 available funds, the number of persons to be employed in each job
8 classification at the school. The council may make personnel decisions on
9 vacancies occurring after the school council is formed but shall not have the
10 authority to recommend transfers or dismissals;

11 (g) The school council shall determine which textbooks, instructional materials,
12 and student support services shall be provided in the school. Subject to
13 available resources, the local board shall allocate an appropriation to each
14 school that is adequate to meet the school's needs related to instructional
15 materials and school-based student support services, as determined by the
16 school council. The school council shall consult with the school media
17 librarian on the maintenance of the school library media center, including the
18 purchase of instructional materials, information technology, and equipment;

19 (h) Personnel decisions at the school level shall be as follows:

20 1. From a list of qualified applicants submitted by the local superintendent,
21 the principal at the participating school shall select personnel to fill
22 vacancies, after consultation with the school council, consistent with
23 paragraph (i)11. of this subsection. The superintendent shall provide
24 additional applicants to the principal upon request when qualified
25 applicants are available. The superintendent may forward to the school
26 council the names of qualified applicants who have pending certification
27 from the Education Professional Standards Board based on recent

1 completion of preparation requirements, out-of-state preparation, or
2 alternative routes to certification pursuant to KRS 161.028 and 161.048.
3 Requests for transfer shall conform to any employer-employee bargained
4 contract which is in effect;

5 2. a. i. If the vacancy to be filled is the position of principal, the
6 outgoing principal shall not serve on the council during the
7 principal selection process. The superintendent or the
8 superintendent's designee shall serve as the chair of the
9 council for the purpose of the hiring process and shall have
10 voting rights during the selection process.

11 ii. Except as provided in subdivision b. of this subparagraph,
12 the council shall have access to the applications of all
13 persons certified for the position. The principal shall be
14 elected on a majority vote of the membership of the council.
15 No principal who has been previously removed from a
16 position in the district for cause may be considered for
17 appointment as principal. The school council shall receive
18 training in recruitment and interviewing techniques prior to
19 carrying out the process of selecting a principal. The council
20 shall select the trainer to deliver the training;

21 b. An alternative principal selection process may be used by the
22 school council as follows:

23 i. Prior to a meeting called to select a principal, all school
24 council members shall receive informational materials
25 regarding Kentucky open records and open meetings laws
26 and sign a nondisclosure agreement forbidding the sharing of
27 information shared and discussions held in the closed

- 1 session;
- 2 ii. The superintendent shall convene the school council and
3 move into closed session as provided in KRS 61.810(1)(f) to
4 confidentially recommend a candidate;
- 5 iii. The council shall have the option to interview the
6 recommended candidate while in closed session; and
- 7 iv. After any discussion, at the conclusion of the closed session,
8 the council shall decide, in a public meeting by majority vote
9 of the membership of the council, whether to accept or reject
10 the recommended principal candidate;
- 11 c. If the recommended candidate is selected, and the recommended
12 candidate accepts the offer, the name of the candidate shall be
13 made public during the next meeting in open session;
- 14 d. i. If the recommended candidate is not accepted by the school
15 council under subdivision b. of this subparagraph, then the
16 process set forth in subdivision a. of this subparagraph shall
17 apply.
- 18 ii. The confidentially recommended candidate's name and the
19 discussions of the closed session shall remain confidential
20 under KRS 61.810(1)(f), and any documents used or
21 generated during the closed meeting shall not be subject to an
22 open records request as provided in KRS 61.878(1)(i) and (j).
- 23 iii. A recommended candidate who believes a violation of this
24 subdivision has occurred may file a written complaint with
25 the Kentucky Board of Education.
- 26 iv. A school council member who is found to have disclosed
27 confidential information regarding the proceeding of the

1 closed session shall be subject to removal from the school
2 council by the Kentucky Board of Education under
3 subsection (9)(e) of this section;

- 4 3. Personnel decisions made at the school level under the authority of
5 subparagraphs 1. and 2. of this paragraph shall be binding on the
6 superintendent who completes the hiring process;
- 7 4. Applicants subsequently employed shall provide evidence that they are
8 certified prior to assuming the duties of a position in accordance with
9 KRS 161.020; and
- 10 5. Notwithstanding other provisions of this paragraph, if the applicant is
11 the spouse of the superintendent and the applicant meets the service
12 requirements of KRS 160.380 ~~(3)(a)(2)(e)~~, the applicant shall only be
13 employed upon the recommendation of the principal and the approval of
14 a majority vote of the school council;
- 15 (i) The school council shall adopt a policy to be implemented by the principal in
16 the following additional areas:
 - 17 1. Determination of curriculum, including needs assessment, curriculum
18 development and responsibilities under KRS 158.6453(19);
 - 19 2. Assignment of all instructional and noninstructional staff time;
 - 20 3. Assignment of students to classes and programs within the school;
 - 21 4. Determination of the schedule of the school day and week, subject to the
22 beginning and ending times of the school day and school calendar year
23 as established by the local board;
 - 24 5. Determination of use of school space during the school day related to
25 improving classroom teaching and learning;
 - 26 6. Planning and resolution of issues regarding instructional practices;
 - 27 7. Selection and implementation of discipline and classroom management

- 1 techniques as a part of a comprehensive school safety plan, including
2 responsibilities of the student, parent, teacher, counselor, and principal;
- 3 8. Selection of extracurricular programs and determination of policies
4 relating to student participation based on academic qualifications and
5 attendance requirements, program evaluation, and supervision;
- 6 9. Adoption of an emergency plan as required in KRS 158.162;
- 7 10. Procedures, consistent with local school board policy, for determining
8 alignment with state standards, technology utilization, and program
9 appraisal; and
- 10 11. Procedures to assist the council with consultation in the selection of
11 personnel by the principal, including but not limited to meetings,
12 timelines, interviews, review of written applications, and review of
13 references. Procedures shall address situations in which members of the
14 council are not available for consultation; and
- 15 (j) Each school council shall annually review data as shown on state and local
16 student assessments required under KRS 158.6453. The data shall include but
17 not be limited to information on performance levels of all students tested, and
18 information on the performance of students disaggregated by race, gender,
19 disability, and participation in the federal free and reduced price lunch
20 program. After completing the review of data, each school council, with the
21 involvement of parents, faculty, and staff, shall develop and adopt a plan to
22 ensure that each student makes progress toward meeting the goals set forth in
23 KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan
24 to the superintendent and local board of education for review as described in
25 KRS 160.340. The Kentucky Department of Education shall provide each
26 school council the data needed to complete the review required by this
27 paragraph no later than October 1 of each year. If a school does not have a

1 council, the review shall be completed by the principal with the involvement
2 of parents, faculty, and staff.

3 (3) The policies adopted by the local board to implement school-based decision making
4 shall also address the following:

5 (a) School budget and administration, including: discretionary funds; activity and
6 other school funds; funds for maintenance, supplies, and equipment; and
7 procedures for authorizing reimbursement for training and other expenses;

8 (b) Assessment of individual student progress, including testing and reporting of
9 student progress to students, parents, the school district, the community, and
10 the state;

11 (c) School improvement plans, including the form and function of strategic
12 planning and its relationship to district planning, as well as the school safety
13 plan and requests for funding from the Center for School Safety under KRS
14 158.446;

15 (d) Professional development plans developed pursuant to KRS 156.095;

16 (e) Parent, citizen, and community participation including the relationship of the
17 council with other groups;

18 (f) Cooperation and collaboration within the district, with other districts, and with
19 other public and private agencies;

20 (g) Requirements for waiver of district policies;

21 (h) Requirements for record keeping by the school council; and

22 (i) A process for appealing a decision made by a school council.

23 (4) In addition to the authority granted to the school council in this section, the local
24 board may grant to the school council any other authority permitted by law. The
25 board shall make available liability insurance coverage for the protection of all
26 members of the school council from liability arising in the course of pursuing their
27 duties as members of the council.

1 (5) All schools shall implement school-based decision making in accordance with this
2 section and with the policy adopted by the local board pursuant to this section.
3 Upon favorable vote of a majority of the faculty at the school and a majority of at
4 least twenty-five (25) voting parents of students enrolled in the school, a school
5 meeting its goal as determined by the Department of Education pursuant to KRS
6 158.6455 may apply to the Kentucky Board of Education for exemption from the
7 requirement to implement school-based decision making, and the state board shall
8 grant the exemption. The voting by the parents on the matter of exemption from
9 implementing school-based decision making shall be in an election conducted by
10 the parent and teacher organization of the school or, if none exists, the largest
11 organization of parents formed for this purpose. Notwithstanding the provisions of
12 this section, a local school district shall not be required to implement school-based
13 decision making if the local school district contains only one (1) school.

14 (6) The Department of Education shall provide professional development activities to
15 assist schools in implementing school-based decision making. School council
16 members elected for the first time shall complete a minimum of six (6) clock hours
17 of training in the process of school-based decision making, no later than thirty (30)
18 days after the beginning of the service year for which they are elected to serve.
19 School council members who have served on a school council at least one (1) year
20 shall complete a minimum of three (3) clock hours of training in the process of
21 school-based decision making no later than one hundred twenty (120) days after the
22 beginning of the service year for which they are elected to serve. Experienced
23 members may participate in the training for new members to fulfill their training
24 requirement. School council training required under this subsection shall be
25 conducted by trainers endorsed by the Department of Education. By November 1 of
26 each year, the principal through the local superintendent shall forward to the
27 Department of Education the names and addresses of each council member and

1 verify that the required training has been completed. School council members
2 elected to fill a vacancy shall complete the applicable training within thirty (30)
3 days of their election.

4 (7) A school that chooses to have school-based decision making but would like to be
5 exempt from the administrative structure set forth by this section may develop a
6 model for implementing school-based decision making, including but not limited to
7 a description of the membership, organization, duties, and responsibilities of a
8 school council. The school shall submit the model through the local board of
9 education to the commissioner of education and the Kentucky Board of Education,
10 which shall have final authority for approval. The application for approval of the
11 model shall show evidence that it has been developed by representatives of the
12 parents, students, certified personnel, and the administrators of the school and that
13 two-thirds (2/3) of the faculty have agreed to the model.

14 (8) The Kentucky Board of Education, upon recommendation of the commissioner of
15 education, shall adopt by administrative regulation a formula by which school
16 district funds shall be allocated to each school council. Included in the school
17 council formula shall be an allocation for professional development that is at least
18 sixty-five percent (65%) of the district's per pupil state allocation for professional
19 development for each student in average daily attendance in the school. The school
20 council shall plan professional development in compliance with requirements
21 specified in KRS 156.095, except as provided in KRS 158.649. School councils of
22 small schools shall be encouraged to work with other school councils to maximize
23 professional development opportunities.

24 (9) (a) No board member, superintendent of schools, district employee, or member of
25 a school council shall intentionally engage in a pattern of practice which is
26 detrimental to the successful implementation of or circumvents the intent of
27 school-based decision making to allow the professional staff members of a

- 1 school and parents to be involved in the decision making process in working
2 toward meeting the educational goals established in KRS 158.645 and
3 158.6451 or to make decisions in areas of policy assigned to a school council
4 pursuant to paragraph (i) of subsection (2) of this section.
- 5 (b) An affected party who believes a violation of this subsection has occurred may
6 file a written complaint with the Office of Education Accountability. The
7 office shall investigate the complaint and resolve the conflict, if possible, or
8 forward the matter to the Kentucky Board of Education.
- 9 (c) The Kentucky Board of Education shall conduct a hearing in accordance with
10 KRS Chapter 13B for complaints referred by the Office of Education
11 Accountability.
- 12 (d) If the state board determines a violation has occurred, the party shall be
13 subject to reprimand. A second violation of this subsection may be grounds
14 for removing a superintendent, a member of a school council, or school board
15 member from office or grounds for dismissal of an employee for misconduct
16 in office or willful neglect of duty.
- 17 (e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the
18 state board determines a violation of the confidentiality requirements set forth
19 in subsection (2)(h)2. of this section by a school council member has
20 occurred, the state board shall remove the member from the school council,
21 and the member shall be permanently prohibited from serving on any school
22 council in the district.
- 23 (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or
24 maintain a school-based decision making council and the powers, duties, and
25 authority granted to a school council may be rescinded or the school council's role
26 may be advisory if the commissioner of education or the Kentucky Board of
27 Education takes action under KRS 160.346.

1 (11) Each school council of a school containing grades K-5 or any combination thereof,
2 or if there is no school council, the principal, shall develop and implement a
3 wellness policy that includes moderate to vigorous physical activity each day and
4 encourages healthy choices among students. The policy may permit physical activity
5 to be considered part of the instructional day, not to exceed thirty (30) minutes per
6 day, or one hundred and fifty (150) minutes per week. Each school council, or if
7 there is no school council, the principal, shall adopt an assessment tool to determine
8 each child's level of physical activity on an annual basis. The council or principal
9 may utilize an existing assessment program. The Kentucky Department of
10 Education shall make available a list of available resources to carry out the
11 provisions of this subsection. The department shall report to the Legislative
12 Research Commission no later than November 1 of each year on how the schools
13 are providing physical activity under this subsection and on the types of physical
14 activity being provided. The policy developed by the school council or principal
15 shall comply with provisions required by federal law, state law, or local board
16 policy.

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

20 ➔Section 4. KRS 160.990 is amended to read as follows:

21 (1) Any person who violates any of the provisions of KRS 160.250 shall be fined not
22 more than two hundred dollars (\$200).

23 (2) Any person who violates any of the provisions of KRS 160.300 shall be fined not
24 less than ten (\$10) nor more than fifty dollars (\$50).

25 (3) Any superintendent who violates any of the provisions of KRS 160.350 to 160.400
26 shall be fined not less than one hundred (\$100) nor more than one thousand dollars
27 (\$1,000) for each offense, and the violation is grounds for revocation of his

1 certificate.

2 (4) Any person who violates any of the provisions of KRS 160.550 shall be fined not
3 less than fifty (\$50) nor more than one hundred dollars (\$100), and shall be subject
4 to removal from office.

5 (5) The Kentucky Board of Education may withhold funds allotted under KRS 157.350
6 from any local district which violates ~~subsection (4) of~~ KRS 160.380 (5) in the
7 amount of one thousand dollars (\$1,000) per violation.

8 (6) In addition to penalties listed in this section, any local district which violates
9 ~~subsection (4) of~~ KRS 160.380 (5) shall be fined not less than five hundred dollars
10 (\$500) nor more than one thousand dollars (\$1,000).

11 ➔Section 5. KRS 161.044 is amended to read as follows:

12 (1) The Kentucky Board of Education shall promulgate administrative regulations
13 governing the qualifications of teachers' aides in the common schools. All teachers'
14 aides working in kindergarten or with entry level students in primary classes and all
15 instructional teachers' aides initially employed after July 1, 1986, except those with
16 current teacher certification, shall have a high school diploma or a High School
17 Equivalency Diploma.

18 (2) "Noninstructional teacher's aide" means an adult who works under the direct
19 supervision of the teaching staff in performing noninstructional functions such as
20 clerical duties, lunch room duties, leading pupils in recreational activities, aiding the
21 school librarian, preparing and organizing instructional material and equipment and
22 monitoring children during a noninstructional period. Noninstructional teachers'
23 aides employed on a full-time basis shall possess skills necessary to perform their
24 duties and shall meet the requirements established in KRS 161.011 and
25 160.380~~{(6)}~~.

26 (3) Within the administrative regulations established by the Kentucky Board of
27 Education, a local district may employ teachers' aides in supplementary

1 instructional and noninstructional activities with pupils. While engaged in an
2 assignment as authorized under the administrative regulations, and as directed by
3 the professional administrative and teaching staff, these personnel shall have the
4 same legal status and protection as a certified teacher in the performance of the
5 same or similar duties.

6 (4) Local districts shall give preference to applicants for the position of teacher's aide
7 who have regular or emergency teacher certification.

8 (5) Local districts shall provide training of the instructional teacher's aide with the
9 certified employee to whom he is assigned.