

1 AN ACT relating to education and declaring an emergency.

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

3 ➔Section 1. (1) Notwithstanding the maximum of 10 student attendance days  
4 that can be granted by the commissioner of education under KRS 158.070(9), a school  
5 district that has a nontraditional instruction plan approved by the commissioner of  
6 education may request approval for additional student attendance days under the  
7 nontraditional instruction plan for when the district is operating with in-person  
8 instruction, virtual instruction, or a hybrid plan that includes in-person or virtual  
9 instruction due to the COVID-19 public health emergency. The number of days shall be  
10 subject to approval of the commissioner of education.

11 (2) Notwithstanding any other statute or administrative regulation to the contrary,  
12 a school district seeking approval by the commissioner for a nontraditional instruction  
13 plan for the 2021-2022 school year must submit the plan within the district's  
14 Comprehensive District Improvement Plan by May 1, 2021. The plan and number of days  
15 shall be subject to approval by the commissioner of education.

16 ➔Section 2. (1) For school districts operating under an approved  
17 nontraditional instruction plan due to the COVID-19 public health emergency, districts  
18 shall measure daily student participation through the interactions between teachers and  
19 students learning through nontraditional instruction. Daily participation shall be a  
20 measure of student engagement in instruction and shall not include student performance.

21 (2) Daily participation for students learning under a nontraditional instruction  
22 plan may occur during the school day or at times outside of normal school hours. Daily  
23 participation shall include at least 1 of the following:

24 (a) One-on-one communication via video or telephone between the teacher and  
25 student or between the teacher, student, and student's parent;

26 (b) Group communication via video or telephone between the teacher and a class  
27 or between a teacher and smaller groups of students within a class;

1 (c) Student time logged into a learning management software system to complete  
2 assignments; or

3 (d) Submission of paper-based assignments for students in a non-digital,  
4 nontraditional setting.

5 (3) Student participation for each school day shall be recorded in the Kentucky  
6 Student Information System.

7 (4) School districts shall work with students and families to engage each student  
8 and promote school participation in accordance with KRS Chapter 159, applicable  
9 administrative regulations, and local board policies, whether instruction is delivered in  
10 person or nontraditionally. Any student enrolled in a public school who fails to participate  
11 in school without valid excuse for three (3) or more days shall be considered truant  
12 pursuant to KRS 159.150.

13 (5) The department shall post the district participation rates to the department's  
14 website and provide a copy to the Legislative Research Commission within 15 days of the  
15 district report submission deadlines.

16 ➔Section 3. Notwithstanding KRS 158.135 and 505 KAR 1:080, an extended  
17 school calendar shall not be required for any program serving the educational needs of  
18 state agency children. State agency children in a particular program shall receive the same  
19 minimum number of instructional hours provided to students generally by the applicable  
20 school district operating a particular state agency children program.

21 ➔Section 4. (1) A local board of education may allow each person employed  
22 as a full-time or part-time employee in the public schools emergency days for leave  
23 related to the COVID-19 public health emergency as determined by the local school  
24 district. COVID-19 emergency leave granted under this section shall not result in a loss of  
25 salary to the employee or affect the employee's sick leave. COVID-19 emergency leave  
26 granted under this section is separate from and shall not include emergency days granted  
27 under KRS 161.152.

1 (2) Leave granted pursuant to this section shall be determined based on local  
2 school board action, resolution, or procedures enacted by the local school district. Such  
3 action, resolution, or procedures shall include but not be limited to:

- 4 (a) The number of emergency days authorized for use by employees;  
5 (b) COVID-19-related reasons for authorization of such leave; and  
6 (c) How leave is credited to and used by employees determined eligible by the  
7 local school board for emergency leave under this section.

8 (3) Leave granted pursuant to this section shall not accumulate or carry over to a  
9 subsequent school year and shall not be transferrable to any other classification of paid  
10 leave established by KRS 161.154, KRS 161.155, or local school district policy.

11 ➔Section 5. The Kentucky Department of Education is hereby directed to seek  
12 any waivers from any federal government agency that may be necessary to allow for  
13 school districts to be reimbursed under the federal Richard B. Russell National School  
14 Lunch Act for any meals and meal supplements that may be prepared and served by the  
15 district, including but not limited to waivers allowing service in non-congregate settings  
16 and reducing the mandatory wait times between serving meals, during any time that a  
17 district is closed to students in relation to the COVID-19 public health emergency. All  
18 school districts are encouraged to maximize opportunities that may be granted through  
19 any waivers regarding food service and the COVID-19 public health emergency to  
20 address food insecurity issues of students in the districts.

21 ➔Section 6. Notwithstanding any other statute or regulation to the contrary, the  
22 Kentucky Board of Education may waive requirements of the statewide assessment and  
23 accountability system in accordance with any federal waiver regarding those requirements  
24 that the Kentucky Department of Education receives due to the COVID-19 public health  
25 emergency.

26 ➔Section 7. The Kentucky Department of Education is hereby directed to seek  
27 and utilize any waivers from any federal government agency involving requirements of

1 the Individuals with Disabilities Education Act, 20 U.S.C. secs. 21 1400 et. seq. that may  
2 be necessary to allow flexibility needed for school districts due to the COVID-19 public  
3 health emergency.

4 ➔Section 8. Notwithstanding KRS 156.557 and 704 KAR 3:370, a local board of  
5 education may revise the district's certified evaluation plan due to the COVID-19 public  
6 health emergency.

7 ➔Section 9. Notwithstanding KRS 159.035, a principal may award the number of  
8 educational enhancement opportunity days needed by a graduating student to meet  
9 military service or postsecondary education enrollment obligations that occur prior to the  
10 last day of school due to the COVID-19 public health emergency.

11 ➔Section 10. Notwithstanding KRS 161.011, KRS 161.750, and KRS 161.760, or  
12 any other statute or administrative regulation to the contrary, written notices required to  
13 be provided to classified and certified school district employees regarding salary or  
14 nonrenewal of contracts may be delivered via regular mail or via email to the email  
15 address on record in the school district.

16 ➔Section 11. (1) Notwithstanding any other statute or regulation to the  
17 contrary, for school years 2020-2021 and 2021-2022, the Kentucky Department of  
18 Education shall use the school district attendance data selected by the district pursuant to  
19 2020 Senate Bill 177 for the purpose of determining Support Education Excellence in  
20 Kentucky funds and any other state funding based in whole or in part on average daily  
21 attendance for the district, except that a district shall receive an amount equal to one-half  
22 (1/2) of the state portion of the average statewide per pupil guaranteed base funding level  
23 for each student who graduated early under the provisions of KRS 158.142.

24 (2) Current year data shall be used for property assessments per KRS 160.470(5),  
25 district tax rates levied, equivalent tax rates based on tax levies, exceptional and limited  
26 English proficiency student counts, and state equalization.

27 (3) For school year 2021-2022, each school district shall report attendance as

1 required by state statute and regulation.

2       ➔Section 12. A school may count a maximum of 30 minutes as instructional time  
3 in the existing instructional day when used for COVID-19 related activities for in-person  
4 instruction including but not limited to cleaning, sanitizing, hand washing, taking of  
5 temperatures, and instructing students on the use of masks and social distancing. This  
6 thirty (30) minutes may be used in addition to the five (5) minutes of passing time  
7 between instructional periods to increase passing time, prior to the start of the first  
8 instructional period, or after the last instructional period.

9       ➔Section 13. Whereas the Commonwealth of Kentucky continues to face unusual  
10 circumstances and challenges due to the COVID-19 public health crisis, which is having  
11 immediate and significant impacts on public schools, an emergency is declared to exist,  
12 and this Act takes effect upon its passage and approval by the Governor or upon its  
13 otherwise becoming a law. The provisions of this Act shall be retroactive for the 2020-  
14 2021 school year only, except as described in Section 1(2) and Section 11 of this Act.