

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 state of emergency declared by the Governor related to COVID-19.
10 The number of days shall be 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 state of emergency declared by the Governor
18 related to COVID-19, districts shall measure daily student participation through the
19 interactions between teachers and students. Daily participation shall be a measure of
20 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) If the measurement of daily student participation is required during the 2021-
14 2022 school year due to a state of emergency caused by COVID-19, school districts shall
15 report daily participation from the first day of school through December 31, 2021 on or
16 before January 17, 2022, and for the entire school year by July 1, 2022.

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

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

25 ➔Section 4. (1) A local board of education may allow each person employed
26 as a full-time or part-time employee in the public schools emergency days for leave
27 related to the COVID-19 public health emergency as determined by the local school

1 district. COVID-19 emergency leave granted under this section shall not result in a loss of
2 salary to the employee or affect the employee's sick leave. COVID-19 emergency leave
3 granted under this section is separate from and shall not include emergency days granted
4 under KRS 161.152.

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

8 (a) The number of emergency days authorized for use by employees;

9 (b) COVID-19-related reasons for authorization of such leave during the state of
10 emergency; and

11 (c) How leave is credited to and used by employees determined eligible by the
12 local school board for emergency leave under this section.

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

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

26 ➔Section 6. Notwithstanding any other statute or regulation to the contrary, the
27 Kentucky Board of Education may waive requirements of the statewide assessment and

1 accountability system in accordance with any federal waiver regarding those requirements
2 that the Kentucky Department of Education receives due to the COVID-19 public health
3 emergency.

4 ➔Section 7. The Kentucky Department of Education is hereby directed to seek
5 and utilize any waivers from any federal government agency involving requirements of
6 the Individuals with Disabilities Education Act, 20 U.S.C. secs. 21 1400 et. seq. that may
7 be necessary to allow flexibility needed for school districts due to the COVID-19 public
8 health emergency.

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

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

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

21 ➔Section 11. (1) Notwithstanding any other statute or regulation to the
22 contrary, so that districts may utilize a variety of instructional delivery models in response
23 to the COVID-19 health emergency, the Kentucky Department of Education shall use the
24 school district attendance data selected by the district pursuant to 2020 Senate Bill 177 to
25 calculate the average daily attendance used in determining Support Education Excellence
26 in Kentucky funds and any other state funding based in whole or in part on average daily
27 attendance for the district, except that a district shall receive an amount equal to one-half

1 (1/2) of the state portion of the average statewide per pupil guaranteed base funding level
2 for each student who graduated early under the provisions of KRS 158.142.

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

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

13 →Section 13. Whereas the Commonwealth of Kentucky is in a state of emergency
14 due to the COVID-19 public health crisis, which is having immediate and significant
15 impacts on public schools, an emergency is declared to exist, and this Act takes effect
16 upon its passage and approval by the Governor or upon its otherwise becoming a law. The
17 provisions of this Act shall be retroactive for the 2020-2021 school year, and shall be
18 effective for the 2021-2022 school year if a state of emergency declared by the Governor
19 related to COVID-19 exists on July 1 prior to the start of the 2021-2022 school year or is
20 declared during the 2021-2022 school year.