

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2022 REGULAR SESSION
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Amend printed copy of **SB 138/GA**

On page 1, line 5 through page 21, line 8, delete all language and insert the following in lieu thereof:

(1) As used in this section, unless the context requires otherwise:

(a) "Bigotry" means any of the following concepts:

- 1. The belief that an individual or group is inherently superior or inferior to others based on their race or sex;**
- 2. The belief that individuals do not or should not possess equal rights, regardless of their race or sex;**
- 3. The belief that an individual or group, by virtue of their race, sex, or religion:**
 - a. Bears responsibility or accountability for actions committed by other individuals of the same race, sex, or religion; or**
 - b. Should feel personal guilt, anguish, shame, or embarrassment on account of their race, sex, or religion;**
- 4. The belief that an individual or group should be discriminated against or otherwise receive adverse treatment solely, or partly, because of their race, sex, or religion;**
- 5. The belief that an individual or group should not, or cannot, attempt to treat others of a different race without respect to race;**

Amendment No. HFA

Rep. Rep. Matt Lockett

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXX

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6. Race or sex essentialism, meaning:

a. Assigning values, moral and ethical codes, privileges, status, or beliefs to an individual or group of persons based on their race or sex, including the assumption that an individual or group's race or sex makes them fundamentally or inherently dominant, privileged, oppressed, oppressive, or victimized;

b. The belief that an individual or group's moral character or moral worth is determined, in whole or part, by their race or sex; or

c. The belief that meritocracy or merit-based systems, or related character traits such as a hard work ethic, self-reliance, objectivity, rational or linear thinking, planning for the future, or delayed gratification;

i. Are racist, sexist, or oppressive;

ii. Were created by members of a particular race or sex to protect their political, financial, or social status or to oppress members of another race or sex; or

iii. Are traits that generally differentiate Americans on the basis of race or sex; or

7. Race or sex scapegoating, meaning the assigning or imputing of intrinsically negative characteristics to a sex or race, or to individuals because of their race or sex, including but not limited to bias, blame, domination, fault, harm, oppression, sexism, or racism, regardless of whether the negative characteristics are assumed to be held consciously or unconsciously. This shall not include discussions relating to the historical fact of past oppression of one (1) group by another on the basis of race or sex;

(b) "Critical social justice" means the ideological worldview that:

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1. Sees people primarily in terms of their immutable characteristics or social group membership;
 2. Holds that a relationship exists between those immutable characteristics or social groups and societal power and privilege and seeks to disrupt that relationship; and
 3. Holds those immutable characteristics or social groups intersect in a matrix of domination, oppression, and marginalization that provides the foundation for and protects societal systems that preserve the interests of the dominant while excluding or harming everyone else and demands action to dismantle those systems;
- (c) "Revisionist history of America's founding" means one (1) or more of the following concepts:
1. Slavery, racism, sexism, and white supremacy are practices and principles that are fundamental to America rather than deviations from the American promise of life, liberty, and the pursuit of happiness, as expressed in the Declaration of Independence and enshrined in the Constitution of the Commonwealth of Kentucky and the Constitution of the United States;
 2. The advent of slavery in the territory that is now the United States constituted the true founding of the United States; or
 3. The United States or the Commonwealth of Kentucky is fundamentally or inherently racist or sexist because racism and sexism are not merely products of individual prejudice but are embedded in American society for the purpose of upholding white supremacy; and
- (d) "Student" means an individual attending a public school.
- (2) (a) Notwithstanding KRS 158.210 to 158.260 and Section 2 of this Act, consistent with

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the Constitutions of the United States of America and the Commonwealth of Kentucky, a superintendent or board of a public charter school shall ensure that no public school or public charter school offers any classroom instruction or discussion, formal or informal, or distributes any printed or digital materials, including but not limited to textbooks and instructional materials, that:

1. Disparage the fundamental American value of equality; or
2. Advocate, inculcate, or promote bigotry, revisionist history of America's founding, or critical social justice.

(b) Nothing in this section shall be interpreted to:

1. Prohibit discussing, as part of a larger course of academic instruction, the historical existence of bigotry or the historical existence of revisionist views of history, or how those views have influenced historical figures or American history, provided that the teaching does not:

- a. Disparage the fundamental American value of equality;
- b. Advocate, inculcate, or promote bigotry, revisionist history of America's founding, or critical social justice; or
- c. Compel any individual to affirm, adopt, adhere to, profess, or promote concepts in violation of federal and state anti-discrimination laws; or

2 Regulate the conduct or speech of students.

(3) (a) A teacher who chooses to discuss a current event or topic shall explore the event or topic from diverse and contending perspectives without conveying personal opinions about the event or topic.

(b) No state agency, local board of education, school district, or school shall require the following of any student for the student to receive course credit or successfully to complete a course assignment:

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1. Personally associate with any organization engaged in lobbying efforts relating to federal, state, or local legislation;
 2. Personally engage in lobbying for or against legislation at the local, state, or federal level;
 3. Personally participate or associate with the activities of any organization engaged in social or public policy advocacy; or
 4. Personally participate or associate with any partisan activity relating to social or public policy advocacy.
- (c) Private funding shall not be accepted by any state agency or school district for history or social studies curriculum development, curricular materials, teacher training, or professional development that:
1. Disparages the fundamental American value of equality; or
 2. Advocates, inculcates, or promotes bigotry, revisionist history of America's founding, or critical social justice.
- (d) Nothing in this subsection shall be construed to prohibit individuals from observing or participating in lawful government processes or volunteering support for the lawful operations of federal, state, or local government agencies and organizations, including agencies and organizations of a legislative branch, judicial branch, or executive branch of a government entity.
- (4) No state agency, local board of education, school district, or public school shall use public funds to contract with, hire, or otherwise engage speakers, consultants, trainers, and other persons to communicate with students, school administrators, teachers, or other personnel for the purpose of:
- (a) Professing or promoting bigotry, revisionist history of America's founding, or critical social justice or the rejection of the fundamental American value of

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equality; or

(b) Compelling or encouraging the audience to reject the fundamental American value of equality or to affirm, adopt, adhere to, profess, or promote bigotry, revisionist history of America's founding, or critical social justice.

(5) A complaint alleging a violation of subsection (2) or (3) of this section shall be filed with the Office of Education Accountability.

(a) A complaint filed pursuant to this paragraph shall not be valid unless:

1. The complaint is filed by:

a. Any parent or guardian of a student enrolled in the school where the alleged violation occurred;

b. A student who is enrolled at the school where the alleged violation occurred who has reached the age of majority or is a lawfully emancipated minor; or

c. A classified or certified employee of the school where the alleged violation occurred; and

2. The complaint is in writing and includes:

a. The name and contact information of the complainant;

b. The name of the school and school district where the alleged violation occurred; and

c. A detailed description of the facts underlying an alleged violation, including the date of the alleged violation and the name of any individual associated with the violation.

(b) The Office of Education Accountability shall promptly send a letter or notice and a copy of each valid complaint to:

1. The principal of the school where the alleged violation occurred for an

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- investigation and determination in accordance with subsection (6) of this section if the complaint arises from an alleged act or omission of any school employee other than the principal;
2. The superintendent of the school district where the alleged violation occurred for an investigation and determination in accordance with subsection (7) of this section if the complaint arises from an alleged act or omission of the principal; or
3. The board of education of the district where the alleged violation occurred for an investigation and determination in accordance with subsection (8) of this section if the complaint arises from an alleged act or omission of a superintendent or local board of education.
- (c) The Office of Education Accountability shall have no role in the investigation or determination of any complaint. Any documents received and maintained under this statute are protected from disclosure under Section 3 of this Act.
- (6) If a complaint arises from an alleged act or omission of a school employee other than a principal or superintendent:
- (a) Upon receiving the letter of notice and complaint, the principal or the principal's designee shall:
1. Promptly review the complaint, take reasonable steps to investigate the allegations contained in the complaint, and take reasonable steps to confer with the complainant; and
2. Within ten (10) school days, unless an extended schedule is mutually agreed upon by the complainant and the principal, issue a principal's determination that:
- a. Provides a summary of the steps taken by the principal to investigate the

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complaint;

b. States the principal's determination of whether a violation of subsection (2) or (3) of this section has occurred and the factual basis to support that determination;

c. If the principal determines that a violation of subsection (2) or (3) of this section has occurred, states the remedial steps that have been or will be taken to address the violation; and

d. Shall be immediately sent to the complainant, the superintendent, and Office of Educational Accountability.

(b) If a complainant believes a principal's determination issued in accordance with paragraph (a) of this subsection does not adequately resolve the complaint, or if a timely principal's determination is not issued, the complainant may submit a written request to reconsider the principal's determination or to make a determination if none has been issued to the superintendent. A request to the superintendent made pursuant to this paragraph shall be handled in accordance with subsection (7) of this section.

(7) If a complaint arises from an alleged act or omission of a school principal or a complainant submits a written request in accordance with subsection (6)(b) of this section:

(a) Upon receiving the letter of notice and complaint or written request in accordance with subsection (6)(b) of this section, the superintendent or superintendent's designee shall:

1. Promptly review the complaint, take reasonable steps to investigate the allegations contained in the complaint, and take reasonable steps to confer with the complainant;

2. If applicable, promptly review the principal's determination; and
3. Within twenty (20) school days of the date of the complainant's written request, unless an extended schedule is mutually agreed upon by the complainant and the superintendent, issue a superintendent's determination that:
 - a. Provides a summary of the steps taken by the superintendent to investigate the complaint and, if applicable, the principal's determination;
 - b. States the superintendent's determination of whether a violation of subsection (2) or (3) of this section has occurred and the factual basis to support that determination;
 - c. If the superintendent determines that a violation of subsection (2) or (3) of this section has occurred, states the remedial steps that have been or will be taken to address the violation; and
 - d. Shall be immediately sent to the complainant, the local board of education, and Office of Educational Accountability.
- (b) If a complainant believes a superintendent's determination issued in accordance with paragraph (a) of this subsection does not adequately resolve the complaint, or if a timely superintendent's determination is not issued, the complainant may submit a final written request to reconsider the superintendent's determination or to make a determination if none is issued to the local board of education, which shall be handled in accordance with subsection (8) of this section.
- (8) If a complaint arises from an alleged act or omission of a superintendent or local board of education or a complainant submits a written request in accordance with subsection (7)(b) of this section, the local board of education shall:

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- (a) Promptly review the complaint, take reasonable steps to investigate the allegations contained in the complaint, and take reasonable steps to confer with the complainant;
- (b) If applicable, promptly review the principal and superintendent's determinations; and
- (c) Within thirty (30) calendar days of the date of the complainant's written request, unless an extended schedule is mutually agreed upon by the complainant and the local board of education, issue a final district determination that:
1. Provides a summary of the steps taken by the board to investigate the complaint and, if applicable, the principal and superintendent's determinations;
 2. States the board's determination of whether a violation of subsection (2) or (3) of this section has occurred and the factual basis to support that determination; and
 3. If the board determines that a violation of subsection (2) or (3) of this section has occurred, states the remedial steps that have been or will be taken to address the violation;
 4. Shall be immediately sent to the complainant and Office of Educational Accountability; and
 5. Shall be final and appealable in accordance with subsection (10) of this section.
- (9) (a) A local board of education shall adopt a policy for a complaint resolution process that meets the requirements of subsections (6), (7), and (8) of this section.
- (b) No later than July 1, 2022, the Kentucky Board of Education shall promulgate a model policy that a local school board may adopt for a complaint resolution

- process that meets the requirements of subsections (6), (7), and (8) of this section.
- (c) The Kentucky Department of Education shall develop, publish, and update as necessary a sample principal determination form, superintendent determination form, and final determination form and guidance that principals, superintendents, and local boards of education may use when determining:
1. The appropriate steps necessary to investigate a complaint alleging a violation of subsection (2) or (3) of this section;
 2. Whether a violation of subsection (2) or (3) of this section occurred; and
 3. What remedial steps are appropriate to address a violation of subsection (2) or (3) of this section are sufficient, including suggested outcomes and actions.
- (10) (a) Notwithstanding any provision of law to the contrary, including but not limited to any claim to civil immunity, if an individual identified in subsection (5)(a)1. of this section has exhausted the applicable administrative remedies as set forth in subsections (5) to (8) of this section, but the alleged violation persists, the individual shall have a cause of action against the school district or any of its agents acting in their official capacities for injunctive relief and all damages arising from the violation, including but not limited to reasonable attorney's fees and litigation costs.
- (b) A claim brought pursuant to this subsection may be asserted in the Circuit Court of the county in which the school district is located within one (1) year from the date the final review is issued or due to be issued by the local board of education in accordance with subsection (8) of this section.
- (c) The Circuit Court shall review the allegations contained in a valid complaint submitted in accordance with subsection (5) of this section de novo.
- (d) The remedies identified in this subsection shall be in addition to, not in lieu of, any

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other remedies available at law or equity.

(e) The school district is authorized and encouraged to negotiate extra-judicial settlements of any bona fide claim brought pursuant to this subsection.

(f) If a claim brought pursuant to this subsection is ruled frivolous by the Circuit Court, the court may order the plaintiff to reimburse the school district for all court costs and reasonable attorney's fees for defending the action.

(11) The Attorney General may bring an action against a school district, or any of its agents acting in their official capacities, to enforce subsection (2) or (3) of this section.

(12) A local board of education shall notify the Office of Education Accountability of any legal action brought pursuant to subsection (10) or (11) of this section.

(13) (a) The superintendent of each local school district or governing board of each public charter school shall require the principal of each public school or public charter school to provide written notice to all students and parents and guardians of students within ten (10) days of the first instructional day of each school year and upon any verbal, written, or electronic complaint implicating a potential violation of subsection (2) or (3) of this section of:

1. The provisions of this section;

2. The right of a student or parent or guardian of a student to file a complaint with the Office of Education Accountability in accordance with subsection (5) of this section;

3. The specific procedures for filing a complaint with the Office of Education Accountability, including but not limited to a link to the form to submit the complaint; and

4. The right of a student or student's parent or guardian to pursue legal action for injunctive relief and all damages arising from a violation of subsection (2)

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or (3) of this section, including but not limited to reasonable attorney's fees and litigation costs, in accordance with subsection (10) of this section if the alleged violation is not resolved upon exhaustion of the applicable administrative remedies set forth in subsections (5) to (8) of this section.

(b) The notice required by paragraph (a) of this subsection shall be accessible to students and parents and guardians of students through the official school district and school Web sites.

(14) A school district or school district employee shall not subject an individual to any retaliation, adverse employment action, warning, discipline, other adverse consequences for filing a complaint in in accordance with subsection (5) of this section, filing a lawsuit in accordance with subsection (10) of this section, or supporting the complaint or lawsuit of another.

➔Section 2. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

- (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
- (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school.

The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district;
or
3. Alternative schools designed to provide services to at-risk populations with unique needs;

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- (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals and assistant principals; and
 - (d) "Parent" means:
 - 1. A parent, stepparent, or foster parent of a student; or
 - 2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.
- (2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include but not be limited to a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision-making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:
- (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

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- (b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.
2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
- a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
- b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
- (c) 1. The school council shall have the responsibility to set school policy consistent

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with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;
- (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
- (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;
- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
- (g) The **local superintendent**~~[school council]~~ shall determine which **curriculum**, textbooks, instructional materials, and student support services shall be provided in the school **after consulting with the school principal and the school council and after a reasonable review and response period for stakeholders in accordance with**

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local board of education policy. The superintendent shall not select curriculum, textbooks, instructional materials, or student support services that violate subsection (2) or (3) of Section 1 of this Act. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the **school principal after consultation with the** school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

- (h) Personnel decisions at the school level shall be as follows:
1. From a list of qualified applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with paragraph (i)11. of this subsection. The superintendent shall provide additional applicants to the principal upon request when qualified applicants are available. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect;
 2. a. i. If the vacancy to be filled is the position of principal, the outgoing principal shall not serve on the council during the principal selection process. The superintendent or the superintendent's designee shall serve as the chair of the council for the purpose of the hiring process

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and shall have voting rights during the selection process.

- ii. Except as provided in subdivision b. of this subparagraph, the council shall have access to the applications of all persons certified for the position. The principal shall be elected on a majority vote of the membership of the council. The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training;
- b. An alternative principal selection process may be used by the school council as follows:
 - i. Prior to a meeting called to select a principal, all school council members shall receive informational materials regarding Kentucky open records and open meetings laws and sign a nondisclosure agreement forbidding the sharing of information shared and discussions held in the closed session;
 - ii. The superintendent shall convene the school council and move into closed session as provided in KRS 61.810(1)(f) to confidentially recommend a candidate;
 - iii. The council shall have the option to interview the recommended candidate while in closed session; and
 - iv. After any discussion, at the conclusion of the closed session, the council shall decide, in a public meeting by majority vote of the membership of the council, whether to accept or reject the recommended principal candidate;
- c. If the recommended candidate is selected, and the recommended candidate

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- accepts the offer, the name of the candidate shall be made public during the next meeting in open session;
- d.
 - i. If the recommended candidate is not accepted by the school council under subdivision b. of this subparagraph, then the process set forth in subdivision a. of this subparagraph shall apply.
 - ii. The confidentially recommended candidate's name and the discussions of the closed session shall remain confidential under KRS 61.810(1)(f), and any documents used or generated during the closed meeting shall not be subject to an open records request as provided in KRS 61.878(1)(i) and (j).
 - iii. A recommended candidate who believes a violation of this subdivision has occurred may file a written complaint with the Kentucky Board of Education.
 - iv. A school council member who is found to have disclosed confidential information regarding the proceeding of the closed session shall be subject to removal from the school council by the Kentucky Board of Education under subsection (9)(e) of this section;
 3. No principal who has been previously removed from a position in the district for cause may be considered for appointment as principal in that district;
 4. Personnel decisions made at the school level under the authority of subparagraphs 1. and 2. of this paragraph shall be binding on the superintendent who completes the hiring process;
 5. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020;
 6. Notwithstanding other provisions of this paragraph, if the applicant is the

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spouse of the superintendent and the applicant meets the service requirements of KRS 160.380(3)(a), the applicant shall only be employed upon the recommendation of the principal and the approval of a majority vote of the school council; and

7. ~~{Beginning June 27, 2019, }~~Notwithstanding the requirement that a principal be elected on a majority vote of the council in subparagraph 2. of this paragraph, if the school council is in a county school district in a county with a consolidated local government adopted under KRS Chapter 67C, then the selection of a principal shall be subject to approval by the superintendent. If the superintendent does not approve the principal selected by the council, then the superintendent may select the principal;
 - (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
 1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under KRS 158.6453(19);
 2. Assignment of all instructional and noninstructional staff time;
 3. Assignment of students to classes and programs within the school;
 4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
 5. Determination of use of school space during the school day related to improving classroom teaching and learning;
 6. Planning and resolution of issues regarding instructional practices;
 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including

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responsibilities of the student, parent, teacher, counselor, and principal;

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Adoption of an emergency plan as required in KRS 158.162;
10. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
11. Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; ~~and~~

(j) **Beginning with the 2022-2023 school year, each public school shall:**

- 1. Include and maintain on the homepage of its Web site a link that provides a detailed list of primary instructional materials used in all courses available at the school, including but not limited to the title, author, creator, and publisher of any book, periodical, treatise, article, recording, software, Web site, or paper;**
- 2. Review primary instructional materials of each course and update the online list of primary instructional materials:**
 - a. On a semiannual basis or more frequently as determined necessary by the local school district or school administration; and**
 - b. Before a new course may be made available to student; and**
- 3. a. Make all instructional materials, including primary, supplementary,**

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and ancillary materials used or proposed for use by students available for on-site review during school hours upon request of:

i. Any parent or guardian of a student who is or will be enrolled in the school; and

ii. A student who has reached the age of majority or is a lawfully emancipated minor and who is enrolled at the school.

b. A request for review of instructional materials made in accordance with this paragraph shall be accommodated by the school at least twenty-four (24) hours prior to the use of the instructional materials; and

(k) Each school council shall annually review data as shown on state and local student assessments required under KRS 158.6453. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than October 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

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

(a) School budget and administration, including: discretionary funds; activity and other

- school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
- (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
 - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
 - (d) Professional development plans developed pursuant to KRS 156.095;
 - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
 - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
 - (g) Requirements for waiver of district policies;
 - (h) Requirements for record keeping by the school council; and
 - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) All schools shall implement school-based decision making in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of

Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.
- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of

the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

- (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.
- (9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
- (b) An affected party who believes a violation of this subsection has occurred may file a

- written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
- (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
- (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent or a member of a school council from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.
- (e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the state board determines a violation of the confidentiality requirements set forth in subsection (2)(h)2. of this section by a school council member has occurred, the state board shall remove the member from the school council, and the member shall be permanently prohibited from serving on any school council in the district.
- (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.
- (11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall

adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided. The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.

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

➔Section 3. KRS 7.410 is amended to read as follows:

- (1) It is the intent of the General Assembly to provide an efficient system of common schools which shall be operated without waste, duplication, mismanagement, and political influence. The system of schools shall have the goal of providing all students with at least the seven (7) capacities referred to in KRS 158.645.
- (2) (a) An Office of Education Accountability is hereby created and shall be under the direction of the Legislative Research Commission and shall be advised and monitored by the Education Assessment and Accountability Review Subcommittee.
- (b) The Office of Education Accountability shall be administered by a deputy director appointed by the Legislative Research Commission upon recommendation of the director of the Legislative Research Commission. The deputy director shall have the qualifications set by the Commission. The salary of the deputy director shall be set by the Commission. The Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of this section. The

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deputy director shall be subject to the direction of and report to the director of the Legislative Research Commission.

(c) The Office of Education Accountability shall have the following duties and responsibilities:

1. Monitor the elementary and secondary public education system, including actions taken and reports issued by the Kentucky Board of Education, the Education Professional Standards Board, the commissioner of education, the Department of Education, and local school districts. Upon and under the direction of the Education Assessment and Accountability Review Subcommittee, the monitoring of the elementary and secondary public education system shall also include periodic reviews of local district and school-based decision making policies relating to the recruitment, interviewing, selection, evaluation, termination, or promotion of personnel. The office shall report any district or school when evidence demonstrates a pattern of exclusionary personnel practices relating to race or sex to the Kentucky Department of Education, which shall then independently investigate facts raised in or associated with the report. The results of the investigation conducted by the department shall be forwarded to the Kentucky Board of Education which shall conduct an investigative hearing on the matter; ~~and~~
2. Upon and under the direction of the Education Assessment and Accountability Review Subcommittee, review the elementary and secondary public education finance system. The review shall include an analysis of the level of equity achieved by the funding system and whether adequate funds are available to all school districts and an analysis of the weights of various education program components developed by the Department of Education. The review may also

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include recommendations for the base per pupil funding for the Support Education Excellence in Kentucky Program and a statewide salary schedule, and studies of other finance issues identified by the Education Assessment and Accountability Review Subcommittee;{+}

3. Upon and under the direction of the Education Assessment and Accountability Review Subcommittee, verify the accuracy of reports of school, district, and state performance by conducting, requesting, or upon approval of the Legislative Research Commission, contracting for periodic program and fiscal audits. Upon and under the direction of the Education Assessment and Accountability Review Subcommittee, the Office of Education Accountability shall monitor and verify the accuracy of reports of the Department of Education and the Kentucky Board of Education, including but not limited to the annual fiscal conditions of grants, categorical programs, and other educational initiatives set forth by the General Assembly;{+}
4. **Except as provided in Section 1 of this Act,** investigate allegations of wrongdoing of any person or agency, including but not limited to waste, duplication, mismanagement, political influence, and illegal activity at the state, regional, or school district level; make appropriate referrals to other agencies with jurisdiction over those allegations; and make recommendations for legislative action to the Education Assessment and Accountability Review Subcommittee. Upon acceptance by the subcommittee, recommendations for legislative action shall be forwarded to the Legislative Research Commission. The Office of Education Accountability shall submit to the subcommittee, for each of its regular meetings, a report that summarizes investigative activity initiated pursuant to this subparagraph. The subcommittee may consider each

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report as it determines and in its discretion. Each report, and the consideration thereof by the subcommittee, shall be exempt from the open records and open meetings requirements contained in KRS Chapter 61;~~;~~

5. Upon and under the direction of the Education Assessment and Accountability Review Subcommittee, conduct studies, analyze, verify, and validate the state assessment program through other external indicators of academic progress including but not limited to American College Test scores, Scholastic Assessment Test scores, National Assessment of Educational Progress scores, Preliminary Scholastic Assessment Test scores, Advanced Placement Program participation, standardized test scores, college remediation rates, retention and attendance rates, dropout rates, and additional available data on the efficiency of the system of schools and whether progress is being made toward attaining the goal of providing students with the seven (7) capacities as required by KRS 158.645;~~;~~
6. Make periodic reports to the Education Assessment and Accountability Review Subcommittee as directed by the subcommittee. Upon acceptance by the subcommittee, the reports shall be forwarded to the Legislative Research Commission;~~;~~
7. Make periodic reports to the Legislative Research Commission as may be directed by the Commission;~~;~~
8. Prepare an annual report, which shall consist of a summary of the status and results of the current year annual research agenda provided in paragraph (d) of this subsection, a summary of completed investigative activity conducted pursuant to subparagraph 4. of this paragraph, and other items of significance as determined by the Education Assessment and Accountability Review

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Subcommittee. The annual report shall be submitted to the Education Assessment and Accountability Review Subcommittee. Upon acceptance by the subcommittee, the annual report shall be submitted to the Governor, the Legislative Research Commission, and the Kentucky Board of Education; **and**

9. Carry out an annual survey of public school districts and public charter schools to assess curriculum transparency and compliance with Sections 1 and 2 of this Act. The Office of Education Accountability shall prepare an annual report on statewide curriculum transparency and compliance with the requirements of Section 1 and 2 of this Act. The report shall include:

- a. A summary of the results of the survey required by this subparagraph;**
- b. A summary of the nature and status of complaints received pursuant to subsection (5) of Section 1 of this Act and an appendix that includes each complaint, principal's determination, superintendent's determination, and final district determination submitted to the Office of Education Accountability, redacted by the office as necessary to preserve the privacy of students and families, as well as certified or classified employees if there has been a judicial determination that no violation of subsections (2) and (3) of Section 1 of this Act;**
- c. A summary of the nature and status of any civil actions filed in accordance with subsections (10) or (11) of Section 1 of this Act; and**
- d. Other items of significance as determined by the Education Assessment and Accountability Review Subcommittee.**

The annual report shall be submitted to the Education Assessment and Accountability Review Subcommittee, and upon acceptance by the subcommittee, the annual report shall be submitted to the Governor, the

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Legislative Research Commission, and the Kentucky Board of Education.

- (d) On or before December 1 of each calendar year, the Education Assessment and Accountability Review Subcommittee shall adopt the annual research agenda for the Office of Education Accountability. The annual research agenda may include studies, research, and investigations considered to be significant by the Education Assessment and Accountability Review Subcommittee. Staff of the Office of Education Accountability shall prepare a suggested list of study and research topics related to elementary and secondary public education for consideration by the Education Assessment and Accountability Review Subcommittee in the development of the annual research agenda. An adopted annual research agenda shall be amended to include any studies mandated by the next succeeding General Assembly for completion by the Office of Education Accountability.
- (e) The Office of Education Accountability shall have access to all public records and information on oath as provided in KRS 7.110. The office shall also have access to otherwise confidential records, meetings, and hearings regarding local school district personnel matters. However, the office shall not disclose any information contained in or derived from the records, meetings, and hearings that would enable the discovery of the specific identification of any individual who is the focus or subject of the personnel matter.
- (f) In compliance with KRS 48.800, 48.950, and 48.955, the Finance and Administration Cabinet and the Governor's Office for Policy and Management shall provide to the Office of Education Accountability access to all information and records, other than preliminary work papers, relating to allotment of funds, whether by usual allotment or by other means, to the Department of Education, local school districts, and to other recipients of funds for educational purposes.

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- (g) Any state agency receiving a complaint or information which, if accurate, may identify a violation of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall notify the office of the complaint or information.
- (h) The Office of Education Accountability may contract for services as approved by the Legislative Research Commission pursuant to KRS 7.090(8).
- (3) The provisions of KRS 61.878 or any other statute, including Acts of the 1992 Regular Session of the General Assembly to the contrary notwithstanding, the testimony of investigators, work products, and records of the Office of Education Accountability relating to duties and responsibilities under subsection (2) of this section shall be privileged and confidential during the course of an ongoing investigation or until authorized, released, or otherwise made public by the Office of Education Accountability and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly hereby finds that a primary purpose of the public-school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism, the basic democratic principles upon which the Commonwealth of Kentucky and United States were founded, and the full, unbiased history of the Commonwealth of Kentucky and United States.*
- (2) *Each school district and public charter school shall ensure that, as part of the mandatory curriculum for graduation from high school, students are educated about:*
 - (a) *The fundamental moral, political, and intellectual foundations of the American experiment in self-government, as expressed in the founding documents of the Commonwealth of Kentucky and nation;*

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(b) The founding documents of the United States, including:

- 1. The Declaration of Independence;**
- 2. The Constitution of the United States;**
- 3. The Federalist Papers; and**
- 4. The transcript of the first debate between Abraham Lincoln and Stephen Douglas;**

(c) The writings of and about the founders of the United States, including George Washington and Thomas Jefferson;

(d) The Constitution of the Commonwealth of Kentucky;

(e) The history of the civil rights movement, including:

- 1. Slavery in the nation and Commonwealth of Kentucky;**
- 2. The Underground Railroad, including Harriet Tubman;**
- 3. Frederick Douglass' Narrative of the Life of Frederick Douglass, an American Slave;**
- 4. Writings from Fredrick Douglass' newspaper, the North Star;**
- 5. The Civil War and the Commonwealth of Kentucky's involvement in the Civil War, including but not limited to:**
 - a. The history of Camp Nelson; and**
 - b. The Commonwealth of Kentucky's official neutral status in the Civil War;**
- 6. Final Emancipation Proclamation by Abraham Lincoln;**
- 7. The 13th, 14th, and 15th Amendments to the Constitution of the United States;**
- 8. State-sanctioned and state-mandated racial discrimination in the United States and in the Commonwealth of Kentucky, including as expressed in:**

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- a. The United States Supreme Court's decision in Plessy v. Ferguson, 163 U.S. 537 (1896);
- b. The eugenics movement and eugenics laws;
- c. Jim Crow laws; and
- d. The segregation of the federal government under President Woodrow Wilson;
9. Justice John Marshall Harlan's dissent in Plessy v. Ferguson, 163 U.S. 537 (1896);
10. The United States Supreme Court's opinions in Brown v. Board of Education of Topeka, 347 U.S. 483 (1954) and Brown v. Board of Education of Topeka, 349 U.S. 294 (1955);
11. The August 28, 1963, "I Have a Dream" speech by the Rev. Dr. Martin Luther King, Jr.;
12. The Civil Rights Act of 1964, Pub. L. No. 88-352, as amended;
13. The Voting Rights Act of 1965;
14. The Fair Housing Act of 1968; and
15. The Equal Employment Opportunity Act of 1972;
- (f) Why racial supremacy and racial scapegoating, including as expressed in slavery, eugenics, Jim Crow laws, and the beliefs of the Ku Klux Klan, are both morally wrong and contrary to America's founding values and ideals;
- (g) The passage of women's suffrage in the Commonwealth of Kentucky and nation, including the 19th Amendment to the Constitution of the United States;
- (h) The Seneca Falls Convention;
- (i) The plight of Native Americans, including the Trail of Tears;
- (j) America's victory over national socialism and fascism in the Second World War;

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(k) America's victory over international socialism and communism in the Cold War;

(l) What distinguishes America's system of self-government from totalitarian systems, such as communism and fascism, that do not hold that individuals are created equal and endowed with inalienable rights, or that government authority rests on the consent of the governed. This shall include discussions of both the historical facts of and motivations for the following atrocities and human rights violations committed by communist and fascist regimes:

1. In accordance with KRS 156.160, the Holocaust; and

2. At least one (1) of the following:

a. The Holodomor;

b. The Great Terror in the Soviet Union;

c. The Gulag Archipelago in the Soviet Union;

d. The Great Leap Forward;

e. The Chinese Cultural Revolution; or

f. The Cambodian Genocide; and

(m) The operations of America's decentralized market economic system, the operations of centrally planned socialist economies, and how America's market system produced and produces substantially greater living standards than socialist systems, including a discussion of the disparate economic trajectories of East and West Germany and North and South Korea following the Second World War."; and

Renumber the following sections accordingly; and

On page 21, after line 8 insert; and

➔Section 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the

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provisions of this Act are severable.

➔Section 7. Whereas it is imperative that the racist indoctrination of Commonwealth of Kentucky students be eradicated, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."