

1 AN ACT relating to exceptional children and youth.

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

3 ➔Section 1. KRS 158.100 is amended to read as follows:

4 (1) **(a)** Notwithstanding any statute to the contrary, each school district shall provide
5 an approved preschool school program through twelve (12) grade school
6 service. An approved preschool school program through eight (8) grade school
7 service shall be provided for the children residing in the district by
8 maintaining schools. An approved high school service for all children of high
9 school grade under twenty-one (21) years of age, **except as described in**
10 **paragraph (b) of this subsection,** residing in the district shall be provided
11 either by maintaining the schools within the district or by contract with
12 another district. The board of education of any school district, subject to the
13 approval of the chief state school officer, may establish night schools,
14 industrial schools, and other schools for the residents of the district as it
15 deems advisable.

16 **(b) An approved high school service shall be provided for exceptional children**
17 **or youth defined under subsection (1)(a) to (m) of Section 2 of this Act until**
18 **the end of the school year in which the student reaches the age of twenty-**
19 **one (21) years.**

20 (2) A school district may provide an approved high school program to a student who is
21 a refugee or legal alien until the student graduates or until the end of the school year
22 in which the student reached the age of twenty-one (21), whichever occurs first.

23 (3) (a) The board of education of any school district may establish a virtual high
24 school completion program for residents of the district of at least twenty-one
25 (21) years of age that is designed to allow high school dropouts to complete
26 high school graduation requirements through the use of virtual instruction.

27 (b) A student shall be eligible to enroll in a district's program if the student:

- 1 1. Is a resident of the district;
 - 2 2. Is at least twenty-one (21) years of age;
 - 3 3. Had previously dropped out of a high school; and
 - 4 4. Had earned at least sixteen (16) credits at the time of dropping out.
- 5 (c) Notwithstanding paragraph (b)1. of this subsection, a program may enroll a
- 6 nonresident student if the student otherwise qualifies for enrollment.
- 7 (d) To enroll in a district's program, a student shall provide a notarized transcript
- 8 evidencing any credits earned previously towards graduation that are not from
- 9 that district.
- 10 (e) To earn a high school diploma through the virtual program, a district shall
- 11 require a student to either:
- 12 1. Complete the high school graduation requirements of the district that
 - 13 were or would have been applicable to the student at the time the student
 - 14 dropped out of high school; or
 - 15 2. Complete the high school graduation requirements of the district in
 - 16 effect at the time of enrolling in the virtual program.
- 17 (f) A district may charge a student reasonable tuition and fees for the program.

18 ➔Section 2. KRS 157.200 is amended to read as follows:

- 19 (1) "Exceptional children and youth" means persons~~[under twenty-one (21) years of~~
- 20 ~~age]~~ who differ in one (1) or more respects from same-age peers in physical, mental,
- 21 learning, emotional, or social characteristics and abilities to such a degree that they
- 22 need special educational programs or services for them to benefit from the regular
- 23 or usual facilities or educational programs of the public schools in the districts in
- 24 which they reside. The Department of Education, through administrative regulations
- 25 promulgated by the Kentucky Board of Education, shall interpret the statutory
- 26 definitions of exceptionality. An exceptionality is any trait so defined in this section
- 27 or by administrative regulations promulgated by the Kentucky Board of Education.

1 Requirements of average daily attendance for exceptional classes shall be regulated
2 by statute, or in the absence of direction by administrative regulations promulgated
3 by the Kentucky Board of Education. Categories of exceptionalities included within,
4 but not limited by, this definition are as follows:

- 5 (a) "Orthopedic impairment" means a severe physical impairment of bone or
6 muscle which adversely affects educational performance to the extent that
7 specially designed instruction is required for the pupil to benefit from
8 education. The term includes physical impairments caused by congenital
9 anomaly, disease, and from other causes;
- 10 (b) "Other health impaired" means limited strength, vitality, or alertness,
11 including a heightened alertness to environmental stimuli, due to a chronic or
12 acute health problem which adversely affects educational performance to the
13 extent that specially designed instruction is required for the pupil to benefit
14 from education. Chronic health problems may include, but are not be limited
15 to, a heart condition, tuberculosis, sickle cell anemia, hemophilia, epilepsy,
16 rheumatic fever, nephritis, asthma, lead poisoning, leukemia, diabetes,
17 attention deficit disorder, attention deficit hyperactive disorder, or acquired
18 immune deficiency syndrome;
- 19 (c) "Speech or language impairment" means a communication disorder such as
20 stuttering, impaired articulation, impaired language, impaired voice, delayed
21 acquisition of language, or absence of language that adversely affects
22 educational performance to the extent that specially designed instruction is
23 required for the pupil to benefit from education;
- 24 (d) "Hearing impairment" means a physiological hearing loss:
- 25 1. Ranging from mild to profound, which is either permanent or
26 fluctuating, and of such a degree that the pupil is impaired in the
27 processing of linguistic information via the auditory channel either with

1 or without amplification; or

2 2. That adversely affects educational performance so that specially
3 designed instruction is required for the child or youth to benefit from
4 education.

5 The term shall include both deaf and hard of hearing children;

6 (e) "Mental disability" means a deficit or delay in intellectual and adaptive
7 behavior functioning, which adversely affects educational performance to the
8 extent that specially designed instruction is required for the pupil to benefit
9 from education, and which is typically manifested during the developmental
10 period;

11 (f) "Specific learning disability" means a disorder in one (1) or more of the
12 psychological processes primarily involved in understanding or using spoken
13 or written language, which selectively and significantly interferes with the
14 acquisition, integration, or application of listening, speaking, reading, writing,
15 reasoning, or mathematical abilities. "Specific learning disability" may include
16 conditions such as dyslexia, dyscalculia, dysgraphia, developmental aphasia,
17 or perceptual motor disabilities. The disorder is lifelong, intrinsic to the
18 individual, and adversely affects educational performance to the extent that
19 specially designed instruction is required in order for the pupil to benefit from
20 education. Determination of the existence of a specific learning disability shall
21 include documentation that a child does not make sufficient progress in
22 meeting age or grade-level content standards when provided with appropriate
23 instruction and learning experiences delivered by qualified personnel,
24 including the child's response to scientific, research-based interventions and
25 additional information derived from an individual evaluation. The term does
26 not include a learning problem which is primarily the result of:

27 1. A hearing impairment;

- 1 2. Visual, physical, mental, or emotional-behavioral disabilities;
- 2 3. Environmental, cultural, or economic differences; or
- 3 4. Limited English proficiency;
- 4 (g) "Emotional-behavioral disability" means a condition characterized by
- 5 behavioral excess or deficit which significantly interferes with a pupil's
- 6 interpersonal relationships or learning process to the extent that it adversely
- 7 affects educational performance so that specially designed instruction is
- 8 required in order for the pupil to benefit from education;
- 9 (h) "Multiple disability" means a combination of two (2) or more disabilities
- 10 resulting in significant learning, developmental, or behavioral and emotional
- 11 problems, which adversely affects educational performance and, therefore,
- 12 requires specially designed instruction in order for the pupil to benefit from
- 13 education. A pupil is not considered to have a multiple disability if the adverse
- 14 effect on educational performance is solely the result of deaf-blindness or the
- 15 result of speech or language disability and one (1) other disabling condition;
- 16 (i) "Deaf-blind" means auditory and visual impairments, the combination of
- 17 which creates such severe communication and other developmental and
- 18 learning needs that the pupil cannot be appropriately educated in special
- 19 education programs designed solely for pupils with hearing impairments,
- 20 visual impairments, or severe disabilities, unless supplementary assistance is
- 21 provided to address educational needs resulting from the two (2) disabilities;
- 22 (j) "Visually disabled" means a visual impairment, which, even with correction,
- 23 adversely affects educational performance to the extent that specially designed
- 24 instruction is required for the pupil to benefit from education. The term
- 25 includes both partially seeing and blind pupils;
- 26 (k) "Developmental delay" means a significant discrepancy between a child's
- 27 current level of performance in basic skills such as cognition, language or

1 communication, self-help, social-emotional, or fine or gross motor, and the
2 expected level of performance for that age. The term shall be used only with
3 children ages three (3) through eight (8);

4 (l) "Traumatic brain injury" means an acquired impairment to the neurological
5 system resulting from an insult to the brain which adversely affects
6 educational performance and causes temporary or permanent and partial or
7 complete loss of:

- 8 1. Cognitive functioning;
- 9 2. Physical ability; or
- 10 3. Communication or social-behavioral interaction.

11 The term does not include a brain injury that is congenital or degenerative, or
12 a brain injury induced by birth trauma;

13 (m) "Autism" means a developmental disability significantly affecting verbal and
14 nonverbal communication and social interaction, generally evident before age
15 three (3), that adversely affects educational performance. Characteristics of
16 autism include:

- 17 1. Engagement in repetitive activity and stereotyped movement;
- 18 2. Resistance to environmental change or change in daily routine; and
- 19 3. Unusual responses to sensory experience.

20 The term does not include children with characteristics of an emotional-
21 behavioral disability; and

22 (n) "Gifted and talented student" means a pupil identified as possessing
23 demonstrated or potential ability to perform at an exceptionally high level in
24 general intellectual aptitude, specific academic aptitude, creative or divergent
25 thinking, psychosocial or leadership skills, or in the visual or performing arts.

26 (2) "Special education" means specially designed instruction to meet the unique needs
27 of an exceptional child or youth.

1 (3) "Special educational facilities" means physical facilities designed or adapted to
2 meet the needs of exceptional children and youth, and approved according to
3 regulations promulgated by the Kentucky Board of Education.

4 (4) "Related services" means transportation and the developmental, corrective, and
5 other supportive services required to assist an exceptional child or youth to benefit
6 from special education, and may include, but are not limited to, speech-language
7 pathology and audiology services; psychological services; physical and occupational
8 therapy; recreation, including therapeutic recreation; early identification and
9 assessment of disabilities; counseling services, including rehabilitation counseling;
10 orientation and mobility services; medical services for diagnostic or evaluation
11 purposes; school health services; social work services in schools; and parent
12 counseling and training.

13 (5) "Transition services" means a coordinated set of activities for a pupil designed
14 within an outcome-oriented process, that promotes movement from school to
15 postschool activities. The term includes:

16 (a) Postsecondary education;

17 (b) Vocational training; and

18 (c) Integrated employment, including supported employment, continuing and
19 adult education, adult services, independent living, or community
20 participation.

21 The coordinated set of activities shall be based on the individual pupil's needs,
22 taking into account the pupil's preferences and interests, and shall include
23 instruction, community experience, the development of employment, and other
24 postschool adult living objectives, and, if appropriate, acquisition of daily living
25 skills and functional vocational evaluation.

26 ➔Section 3. KRS 159.150 is amended to read as follows:

27 (1) Any student who has attained the age of six (6) years, but has not reached his or her

1 eighteenth birthday, who has been absent from school without valid excuse for three
2 (3) or more days, or tardy without valid excuse on three (3) or more days, is a
3 truant.

4 (2) Any student enrolled in a public school who has attained the age of eighteen (18)
5 years, but has not reached his or her twenty-first birthday, **or is a student described**
6 **in subsection (1)(b) of Section 1 of this Act**, who has been absent from school
7 without valid excuse for three (3) or more days, or tardy without valid excuse on
8 three (3) or more days, is a truant.

9 (3) Any student who has been reported as a truant two (2) or more times is an habitual
10 truant.

11 (4) For the purposes of establishing a student's status as a truant, the student's
12 attendance record is cumulative for an entire school year. If a student transfers from
13 one (1) Kentucky public school to another during a school year, the receiving school
14 shall incorporate the attendance information provided under KRS 159.170 in the
15 student's official attendance record.

16 (5) A local board of education may adopt reasonable policies that:

17 (a) Require students to comply with compulsory attendance laws;

18 (b) Require truants and habitual truants to make up unexcused absences;

19 (c) Impose sanctions for noncompliance; and

20 (d) Collaborate and cooperate with the Court of Justice, the Department for
21 Community Based Services, the Department of Juvenile Justice, regional
22 community mental health centers, and other service providers to implement
23 and utilize early intervention and prevention programs, such as truancy
24 diversion, truancy boards, mediation, and alternative dispute resolution to
25 reduce referrals to a court-designated worker.

26 ➔Section 4. KRS 159.990 is amended to read as follows:

27 (1) Any parent, guardian, or custodian who intentionally fails to comply with the

1 requirements of KRS 159.010 to 159.170, except as provided in subsection (5) of
2 this section, shall be fined one hundred dollars (\$100) for the first offense, and two
3 hundred fifty dollars (\$250) for the second offense. Each subsequent offense shall
4 be classified as a Class B misdemeanor. A new offense shall not be constituted until
5 any previous offense has been finally adjudicated. The court trying the case may
6 suspend enforcement of the fine if the child is immediately placed in attendance at a
7 school, and may finally remit the fine if the attendance continues regularly for the
8 full school term. School attendance may be proved by an attested certificate of the
9 principal or teacher in charge of the school.

10 (2) Any principal, teacher, director of pupil personnel, assistant director of pupil
11 personnel, or other school officer who intentionally fails to comply with the
12 provisions of KRS 159.010 to 159.250, or of KRS 160.330 shall be fined not less
13 than twenty-five dollars (\$25) nor more than fifty dollars (\$50). Upon conviction
14 under this subsection, a director of pupil personnel or assistant director of pupil
15 personnel shall be removed from office and have his or her certificate revoked, and
16 a principal, teacher, or other school officer may have his certificate revoked.

17 (3) Any person, other than those persons mentioned in subsections (1) and (2) of this
18 section, who fails to comply with any of the provisions of this chapter relating to
19 compulsory attendance, or who violates any of the provisions of KRS 159.130, shall
20 be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200),
21 or imprisoned in the county jail for not more than sixty (60) days, or both.

22 (4) Any person who violates any of the provisions of KRS 159.270 shall be liable to a
23 fine of not less than fifty dollars (\$50) and shall be liable to the punishment
24 prescribed by law for the crime of false swearing. If he or she is an officer, he or
25 she shall be removed from office; and if he or she is a director of pupil personnel,
26 his or her certificate shall be revoked.

27 (5) Any of the following who intentionally fails to comply with the requirements of

1 KRS 159.150 shall be fined one hundred dollars (\$100) for the first offense and two
 2 hundred fifty dollars (\$250) for each subsequent offense:

3 (a) A student enrolled in a public school who has attained the age of eighteen (18)
 4 years, but who has not yet reached his or her twenty-first birthday, for whom a
 5 guardian has not been appointed by a court of competent jurisdiction~~;~~
 6 ~~whether or not that student is identified as an exceptional child or youth under~~
 7 ~~KRS 157.200(1)(a) to (m)];~~

8 (b) *A student enrolled in a public school who has attained the age of eighteen*
 9 *(18) years for whom a guardian has not been appointed by a court of*
 10 *competent jurisdiction, and who has been identified as an exceptional child*
 11 *or youth under subsection (1)(a) to (m) of Section 2 of this Act;*

12 (c) A parent, guardian, or custodian of a student enrolled in a public school who
 13 has not reached his or her eighteenth birthday; or

14 (d)~~(e)~~ A guardian appointed by a court of competent jurisdiction of a student
 15 who is enrolled in a public school, has been identified as an exceptional child
 16 or youth under KRS 157.200(1)(a) to (m), and has attained the age of eighteen
 17 (18) years~~, but who has not yet reached his or her twenty-first birthday].~~

18 Any person described in ~~paragraph (a), (b), or (c) of~~ this subsection shall be
 19 informed by personnel of the local school district that a public school student ~~who~~
 20 ~~has not reached his or her twenty-first birthday]~~ shall be subject to truancy laws.

21 (6) All fines imposed and all sums required to be paid as penalties under this section
 22 shall, after payment of the costs of prosecution and recovery thereof, be paid into
 23 the treasury of the district board of education and become a part of the school fund
 24 of the district.

25 ➔Section 5. (1) Notwithstanding any other statute or administrative
 26 regulation to the contrary, a student who participated in the Supplemental School Year
 27 Program for the 2021-2022 school year in accordance with 2021 Ky. Acts ch. 108 shall be

1 eligible to complete the 2022-2023 school year as a second supplemental school year if
2 the student:

3 (a) Has been identified as an exceptional child or youth under KRS 157.200(1)(a)
4 to (m); and

5 (b) Attained the age of 21 years during the 2021-2022 school year.

6 (2) Notwithstanding any other statute or administrative regulation to the contrary,
7 a student who participates in a second supplemental school year under this section shall
8 be eligible for inclusion in the school district's average daily attendance during the 2022-
9 2023 school year for the purposes of calculating SEEK funds.