

1 AN ACT relating to teacher misconduct.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO  
4 READ AS FOLLOWS:

5 ***A public school district or public charter school shall not enter into a nondisclosure***  
6 ***agreement relating to misconduct involving a minor or student, including sexual***  
7 ***misconduct and conduct subject to mandatory reporting under KRS 620.030.***

8 ➔Section 2. KRS 160.380 is amended to read as follows:

9 (1) As used in this section:

10 (a) ***"Abusive conduct" means misconduct involving a minor or student***  
11 ***including sexual misconduct and conduct subject to mandatory reporting***  
12 ***under KRS 620.030;***

13 (b) "Administrative finding of child abuse or neglect" means a substantiated  
14 finding of child abuse or neglect issued by the Cabinet for Health and Family  
15 Services that is:

- 16 1. Not appealed through an administrative hearing conducted in  
17 accordance with KRS Chapter 13B;
- 18 2. Upheld at an administrative hearing conducted in accordance with KRS  
19 Chapter 13B and not appealed to a Circuit Court; or
- 20 3. Upheld by a Circuit Court in an appeal of the results of an  
21 administrative hearing conducted in accordance with KRS Chapter 13B;

22 (c)~~(b)~~ "Alternative education program" means a program that exists to meet  
23 the needs of students that cannot be addressed in a traditional classroom  
24 setting but through the assignment of students to alternative classrooms,  
25 centers, or campuses that are designed to remediate academic performance,  
26 improve behavior, or provide an enhanced learning experience. Alternative  
27 education programs do not include career or technical centers or departments;

1        ~~(d)~~~~(e)~~ "Clear CA/N check" means a letter from the Cabinet for Health and  
2                    Family Services indicating that there are no administrative findings of child  
3                    abuse or neglect relating to a specific individual;

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

6        ~~(f)~~~~(e)~~ "Vacancy" means any certified position opening created by the  
7                    resignation, dismissal, nonrenewal of contract, transfer, or death of a certified  
8                    staff member of a local school district, or a new position created in a local  
9                    school district for which certification is required. However, if an employer-  
10                  employee bargained contract contains procedures for filling certified position  
11                  openings created by the resignation, dismissal, nonrenewal of contract,  
12                  transfer, or death of a certified staff member, or creation of a new position for  
13                  which certification is required, a vacancy shall not exist, unless certified  
14                  positions remain open after compliance with those procedures.

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

17                  (a) All appointments, promotions, and transfers of principals, supervisors,  
18                  teachers, and other public school employees shall be made only by the  
19                  superintendent of schools, who shall notify the board of the action taken. All  
20                  employees of the local district shall have the qualifications prescribed by law  
21                  and by the administrative regulations of the Kentucky Board of Education and  
22                  of the employing board. Supervisors, principals, teachers, and other  
23                  employees may be appointed by the superintendent for any school year at any  
24                  time after February 1 preceding the beginning of the school year. No  
25                  superintendent of schools shall appoint or transfer himself or herself to  
26                  another position within the school district;

27                  (b) When a vacancy occurs in a local school district, the superintendent shall

1 notify the chief state school officer fifteen (15) days before the position shall  
2 be filled. The chief state school officer shall keep a registry of local district  
3 vacancies which shall be made available to the public. The local school  
4 district shall post position openings in the local board office for public  
5 viewing;

6 (c) When a vacancy needs to be filled in less than fifteen (15) days' time to  
7 prevent disruption of necessary instructional or support services of the school  
8 district, the superintendent may seek a waiver from the chief state school  
9 officer. If the waiver is approved, the appointment shall not be made until the  
10 person recommended for the position has been approved by the chief state  
11 school officer. The chief state school officer shall respond to a district's  
12 request for waiver or for approval of an appointment within two (2) working  
13 days; and

14 (d) When a vacancy occurs in a local district, the superintendent shall conduct a  
15 search to locate minority teachers to be considered for the position. The  
16 superintendent shall, pursuant to administrative regulations of the Kentucky  
17 Board of Education, report annually the district's recruitment process and the  
18 activities used to increase the percentage of minority teachers in the district.

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

20 (a) No relative of a superintendent of schools shall be an employee of the school  
21 district. However, this shall not apply to a relative who is a classified or  
22 certified employee of the school district for at least thirty-six (36) months  
23 prior to the superintendent assuming office and who is qualified for the  
24 position the employee holds. A superintendent's spouse who has previously  
25 been employed in a school system may be an employee of the school district.  
26 A superintendent's spouse who is employed under this provision shall not hold  
27 a position in which the spouse supervises certified or classified employees. A

- 1 superintendent's spouse may supervise teacher aides and student teachers.  
2 However, the superintendent shall not promote a relative who continues  
3 employment under an exception of this subsection;
- 4 (b) No superintendent shall employ a relative of a school board member of the  
5 district;
- 6 (c) No principal's relative shall be employed in the principal's school; and
- 7 (d) A relative that is ineligible for employment under paragraph (a), (b), or (c) of  
8 this subsection may be employed as a substitute for a certified or classified  
9 employee if the relative is not:
- 10 1. A regular full-time or part-time employee of the district;
- 11 2. Accruing continuing contract status or any other right to continuous  
12 employment;
- 13 3. Receiving fringe benefits other than those provided other substitutes or  
14 4. Receiving preference in employment or assignment over other  
15 substitutes.
- 16 (4) No superintendent shall assign a certified or classified staff person to an alternative  
17 education program as part of any disciplinary action taken pursuant to KRS 161.011  
18 or 161.790 as part of a corrective action plan established pursuant to the local  
19 district evaluation plan.
- 20 (5) No superintendent shall initially employ in any position in the district any person  
21 who is a violent offender or has been convicted of a sex crime as defined by KRS  
22 17.165 which is classified as a felony or persons with an administrative finding of  
23 child abuse or neglect in records maintained by the Cabinet for Health and Family  
24 Services. The superintendent may employ, at his ***or her*** discretion, except at a  
25 Kentucky Educational Collaborative for State Agency Children program, persons  
26 convicted of sex crimes classified as a misdemeanor.
- 27 (6) ***(a) Each application for a district position shall require the applicant to:***

- 1           1. Disclose being the subject of any allegation, investigation, or  
2           disciplinary action within the past twelve (12) months, and any  
3           resulting resignation or termination, related to abusive conduct while  
4           employed by a school district; and
- 5           2. Consent to a reference check under paragraph (b) of this subsection  
6           and a request for information under paragraph (c) of this subsection.
- 7       **(b) 1. A school district considering an applicant for employment shall**  
8           contact each school district, school, or nonpublic school that employs  
9           or previously employed the applicant for a reference check.
- 10       **2. A school district, school, or nonpublic school that previously employed**  
11           or employs the applicant shall disclose any allegation, investigation, or  
12           disciplinary action, and any resulting resignation or termination,  
13           related to abusive conduct while the applicant was employed by the  
14           school or school district.
- 15       **3. A school district or nonpublic school, and any school employees,**  
16           making a disclosure pursuant to this paragraph of any allegation,  
17           investigation, or disciplinary action, and any resulting resignation or  
18           termination, shall be immune from any civil or criminal liability that  
19           might otherwise be incurred or imposed as a result of:
- 20           a. Making the disclosure; or  
21           b. Participating in any judicial proceeding that may result from  
22           making the disclosure.
- 23       **(c) Upon disclosure of an allegation, investigation, or disciplinary action**  
24           involving abusive conduct by an applicant under paragraph (a) of this  
25           subsection or a current or previous employer under paragraph (b) of this  
26           subsection, the school district considering the applicant for employment  
27           shall:

1            1. Request all related information and records from the school district or  
 2            nonpublic school that previously employed or employs the applicant;  
 3            and

4            2. If the application is for a certified position, request information from  
 5            the Education Professional Standards Board related to pending  
 6            disciplinary action against the applicant involving abusive conduct.

7            (d) Upon request from a school district under paragraph (c) of this subsection,  
 8            the school district or nonpublic school of previous or current employment  
 9            and the Educational Professional Standards Board, if applicable, shall  
 10           provide the requested information within ten (10) working days.

11           (e) Any failure to disclose under paragraph (a)1. of this subsection by an  
 12           applicant shall result in the applicant being:

13           1. Ineligible for hire by the school district; and

14           2. Subject to dismissal or termination if the applicant is hired by the  
 15           school district or is a current employee of the school district.

16           (f) The Education Professional Standards Board shall implement procedures  
 17           for responding to a school district upon receiving an inquiry described in  
 18           paragraphs (c) and (d) of this subsection.

19           (Z) Requirements for background checks shall be as follows:

20           (a) A superintendent shall require the following individuals to submit to a  
 21           national and state criminal background check by the Department of Kentucky  
 22           State Police and the Federal Bureau of Investigation and have a clear CA/N  
 23           check, provided by the individual:

24           1. Each new certified or classified hire;

25           2. A nonfaculty coach or nonfaculty assistant as defined under KRS  
 26           161.185;

27           3. A student teacher;

- 1           4. A school-based decision making council parent member; and
- 2           5. Any adult who is permitted access to school grounds on a regularly
- 3           scheduled and continuing basis pursuant to a written agreement for the
- 4           purpose of providing services directly to a student or students as part of
- 5           a school-sponsored program or activity;
- 6       (b) 1. The requirements of paragraph (a) of this subsection shall not apply to:
- 7           a. Classified and certified individuals employed by the school district
- 8           prior to June 27, 2019;
- 9           b. Certified individuals who were employed in another certified
- 10          position in a Kentucky school district within six (6) months of the
- 11          date of hire and who had previously submitted to a national and
- 12          state criminal background check and who have a clear CA/N check
- 13          for the previous employment; or
- 14          c. Student teachers who have submitted to and provide a copy of a
- 15          national and state criminal background check by the Department
- 16          of Kentucky State Police and the Federal Bureau of Investigation
- 17          through an accredited teacher education institution in which the
- 18          student teacher is enrolled and who have a clear CA/N check.
- 19       2. The Education Professional Standards Board may promulgate
- 20          administrative regulations to impose additional qualifications to meet
- 21          the requirements of Public Law 92-544;
- 22       (c) A parent member may serve prior to the receipt of the criminal history
- 23          background check and CA/N letter required by paragraph (a) of this
- 24          subsection but shall be removed from the council on receipt by the school
- 25          district of a report documenting a record of abuse or neglect, or a sex crime or
- 26          criminal offense against a victim who is a minor as defined in KRS 17.500, or
- 27          as a violent offender as defined in KRS 17.165, and no further procedures

1 shall be required;~~and~~

2 (d) A superintendent may require a volunteer or a visitor to submit to a national  
3 and state criminal history background check by the Department of  
4 Kentucky State Police and the Federal Bureau of Investigation and have  
5 a clear CA/N check, provided by the individual; and~~;~~

6 (e) 1. Every five (5) years from the year an individual was required to submit  
7 to a national and state criminal history background check under  
8 paragraph (a) of this subsection, a superintendent shall require the  
9 individual to submit to a state criminal records check.

10 2. The request for records may be from the Justice and Public Safety  
11 Cabinet or the Administrative Office of the Courts, or both, and shall  
12 include records of all available convictions as described in KRS  
13 17.160(1).

14 3. Any request for a criminal records check under this paragraph shall  
15 be on a form or through a process approved by the Justice and Public  
16 Safety Cabinet or the Administrative Office of the Courts.

17 4. Any fee charged by the Justice and Public Safety Cabinet or the  
18 Administrative Office of the Courts shall be an amount no greater  
19 than the actual cost of processing the request and conducting the  
20 search.

21 (8)~~(7)~~ (a) If a certified or classified position remains unfilled after July 31 or if a  
22 vacancy occurs during a school term, a superintendent may employ an  
23 individual, who will have supervisory or disciplinary authority over minors,  
24 on probationary status pending receipt of the criminal history background  
25 check and a clear CA/N check, provided by the individual. Application for the  
26 criminal record and a request for a clear CA/N check of a probationary  
27 employee shall be made no later than the date probationary employment

1 begins.

2 (b) Employment shall be contingent on the receipt of the criminal history  
3 background check documenting that the probationary employee has no record  
4 of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt  
5 of a letter, provided by the individual, from the Cabinet for Health and Family  
6 Services stating the employee is clear to hire based on no administrative  
7 findings of child abuse or neglect found through a background check of child  
8 abuse and neglect records maintained by the Cabinet for Health and Family  
9 Services.

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

15 ~~(9)(8)~~ The provisions of KRS 161.790 shall apply to terminate employment of a  
16 certified employee on the basis of a criminal record other than a record of a sex  
17 crime or as a violent offender as defined in KRS 17.165, or on the basis of a CA/N  
18 check showing an administrative finding of child abuse or neglect.

19 ~~(10)(9)~~ (a) All fingerprints requested under this section shall be on an applicant  
20 fingerprint card provided by the Department of Kentucky State Police. The  
21 fingerprint cards shall be forwarded to the Federal Bureau of Investigation  
22 from the Department of Kentucky State Police after a state criminal  
23 background check is conducted. The results of the state and federal criminal  
24 background check shall be sent to the hiring superintendent. Any fee charged  
25 by the Department of Kentucky State Police, the Federal Bureau of  
26 Investigation, and the Cabinet for Health and Family Services shall be an  
27 amount no greater than the actual cost of processing the request and

1 conducting the search.

2 (b) Each application form, provided by the employer to an applicant for a  
3 certified or classified position, shall conspicuously state the following: "FOR  
4 THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL  
5 AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND A  
6 LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET  
7 FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT  
8 HAS NO ADMINISTRATIVE FINDINGS OF CHILD ABUSE OR  
9 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD  
10 ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET  
11 FOR HEALTH AND FAMILY SERVICES."

12 (c) Each application form for a district position shall require the applicant to:

- 13 1. Identify the states in which he or she has maintained residency,  
14 including the dates of residency;~~and~~
- 15 2. Provide picture identification; and
- 16 3. List each nonpublic school and school district in which the applicant  
17 has been employed, including the dates of employment.

18 (11) (a) When an allegation of abusive conduct is made against a school district  
19 employee, the school district employee receiving the allegation, whether  
20 communicated in writing, electronically, or orally, shall report the  
21 allegation to the school principal. The principal shall document the  
22 allegation and notify the superintendent. An investigation of the allegation  
23 shall be conducted by the school district until completion and shall not end  
24 prior to completion due to the employee transferring positions within the  
25 school district or leaving the school district.

26 (b) Notwithstanding KRS 161.151, all records and references relating to an  
27 allegation of abusive conduct by a school district employee with a student or

1                    *minor shall be included in and remain in an employee's personnel file,*  
2                    *regardless of outcome.*

3     ~~(12)~~~~(10)~~ Notwithstanding any provision of the Kentucky Revised Statutes to the  
4                    contrary, when an employee of the school district is charged with any offense which  
5                    is classified as a felony, the superintendent may transfer the employee to a second  
6                    position until such time as the employee is found not guilty, the charges are  
7                    dismissed, the employee is terminated, or the superintendent determines that further  
8                    personnel action is not required. The employee shall continue to be paid at the same  
9                    rate of pay he or she received prior to the transfer. If an employee is charged with  
10                   an offense outside of the Commonwealth, this provision may also be applied if the  
11                   charge would have been treated as a felony if committed within the  
12                   Commonwealth. Transfers shall be made to prevent disruption of the educational  
13                   process and district operations and in the interest of students and staff and shall not  
14                   be construed as evidence of misconduct.

15     ~~(13)~~~~(11)~~ Notwithstanding any law to the contrary, each certified and classified  
16                   employee of the school district shall notify the superintendent if he or she has been  
17                   found by the Cabinet for Health and Family Services to have abused or neglected a  
18                   child, and if he or she has waived the right to appeal a substantiated finding of child  
19                   abuse or neglect or if the substantiated incident was upheld upon appeal. Any  
20                   failure to report this finding shall result in the certified or classified employee being  
21                   subject to dismissal or termination.

22     ~~(14)~~~~(12)~~ The form for requesting a CA/N check shall be made available on the Cabinet  
23                   for Health and Family Services website~~[Web site]~~.

24     *(15) The provisions of this section, except for subsections (2), (3), and (4) of this*  
25                   *section, shall apply to public charter schools as a health and safety requirement*  
26                   *under KRS 160.1592(1).*

27     ➔Section 3. KRS 156.160 is amended to read as follows:

1 (1) With the advice of the Local Superintendents Advisory Council, the Kentucky  
2 Board of Education shall promulgate administrative regulations establishing  
3 standards which school districts shall meet in student, program, service, and  
4 operational performance. These regulations shall comply with the expected  
5 outcomes for students and schools set forth in KRS 158.6451. Administrative  
6 regulations shall be promulgated for the following:

7 (a) Courses of study for the different grades and kinds of common schools  
8 identifying the common curriculum content directly tied to the goals,  
9 outcomes, and assessment strategies developed under KRS 158.645,  
10 158.6451, and 158.6453 and distributed to local school districts and schools.

11 The administrative regulations shall provide that:

- 12 1. If a school offers American sign language, the course shall be accepted  
13 as meeting the foreign language requirements in common schools  
14 notwithstanding other provisions of law;
- 15 2. If a school offers the Reserve Officers Training Corps program, the  
16 course shall be accepted as meeting the physical education requirement  
17 for high school graduation notwithstanding other provisions of law; and
- 18 3. Every public middle and high school's curriculum shall include  
19 instruction on the Holocaust and other cases of genocide, as defined by  
20 the United Nations Convention on the Prevention and Punishment of the  
21 Crime of Genocide, that a court of competent jurisdiction, whether a  
22 court in the United States or the International Court of Justice, has  
23 determined to have been committed by applying rigorous standards of  
24 due process;

25 (b) Courses of study or educational experiences available to students in all middle  
26 and high schools to fulfill the prerequisites for courses in advanced science  
27 and mathematics as defined in KRS 158.845;

- 1 (c) The acquisition and use of educational equipment for the schools as  
2 recommended by the Council for Education Technology;
- 3 (d) The minimum requirements for high school graduation in light of the  
4 expected outcomes for students and schools set forth in KRS 158.6451. The  
5 minimum requirements shall not include achieving any postsecondary  
6 readiness indicator as described in KRS 158.6455 or any minimum score on a  
7 statewide assessment administered under KRS 158.6453. Student scores from  
8 any assessment administered under KRS 158.6453 that are determined by the  
9 department's technical advisory committee to be valid and reliable at the  
10 individual level shall be included on the student transcript. The department's  
11 technical advisory committee shall submit its determination to the  
12 commissioner of education and the Legislative Research Commission;
- 13 (e) The requirements for an alternative high school diploma for students with  
14 disabilities whose individualized education program indicates that, in  
15 accordance with 20 U.S.C. sec. 1414(d)(1)(A):
- 16 1. The student cannot participate in the regular statewide assessment; and
  - 17 2. An appropriate alternate assessment has been selected for the student  
18 based upon a modified curriculum and an individualized course of  
19 study;
- 20 (f) Taking and keeping a school census, and the forms, blanks, and software to be  
21 used in taking and keeping the census and in compiling the required reports.  
22 The board shall create a statewide student identification numbering system  
23 based on students' Social Security numbers. The system shall provide a  
24 student identification number similar to, but distinct from, the Social Security  
25 number, for each student who does not have a Social Security number or  
26 whose parents or guardians choose not to disclose the Social Security number  
27 for the student;

- 1 (g) Sanitary and protective construction of public school buildings, toilets,  
2 physical equipment of school grounds, school buildings, and classrooms. With  
3 respect to physical standards of sanitary and protective construction for school  
4 buildings, the Kentucky Board of Education shall adopt the Uniform State  
5 Building Code;
- 6 (h) Medical inspection, physical and health education and recreation, and other  
7 regulations necessary or advisable for the protection of the physical welfare  
8 and safety of the public school children. The administrative regulations shall  
9 set requirements for student health standards to be met by all students in  
10 grades four (4), eight (8), and twelve (12) pursuant to the outcomes described  
11 in KRS 158.6451. The administrative regulations shall permit a student who  
12 received a physical examination no more than six (6) months prior to his or  
13 her initial admission to Head Start to substitute that physical examination for  
14 the physical examination required by the Kentucky Board of Education of all  
15 students upon initial admission to the public schools, if the physical  
16 examination given in the Head Start program meets all the requirements of the  
17 physical examinations prescribed by the Kentucky Board of Education;
- 18 (i) A vision examination by an optometrist or ophthalmologist that shall be  
19 required by the Kentucky Board of Education. The administrative regulations  
20 shall require evidence that a vision examination that meets the criteria  
21 prescribed by the Kentucky Board of Education has been performed. This  
22 evidence shall be submitted to the school no later than January 1 of the first  
23 year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a  
24 public school, public preschool, or Head Start program;
- 25 (j) 1. Beginning with the 2010-2011 school year, a dental screening or  
26 examination by a dentist, dental hygienist, physician, registered nurse,  
27 advanced practice registered nurse, or physician assistant that shall be

1 required by the Kentucky Board of Education. The administrative  
2 regulations shall require evidence that a dental screening or examination  
3 that meets the criteria prescribed by the Kentucky Board of Education  
4 has been performed. This evidence shall be submitted to the school no  
5 later than January 1 of the first year that a five (5) or six (6) year-old  
6 child is enrolled in a public school.

7 2. A child shall be referred to a licensed dentist if a dental screening or  
8 examination performed by anyone other than a licensed dentist identifies  
9 the possibility of dental disease;

10 (k) The transportation of children to and from school;

11 (l) The fixing of holidays on which schools may be closed and special days to be  
12 observed, and the pay of teachers during absence because of sickness or  
13 quarantine or when the schools are closed because of quarantine;

14 (m) The preparation of budgets and salary schedules for the several school  
15 districts under the management and control of the Kentucky Board of  
16 Education;

17 (n) A uniform series of forms and blanks, educational and financial, including  
18 forms of contracts, for use in the several school districts;

19 (o) The disposal of real and personal property owned by local boards of  
20 education; and

21 (p) The development and implementation of procedures, for all students who are  
22 homeless children and youths as defined in 42 U.S.C. sec. 11434a(2), to do  
23 the following:

24 1. Awarding and accepting of credit, including partial credit, for all  
25 coursework satisfactorily completed by a student while enrolled at  
26 another school;

27 2. Allowing a student who was previously enrolled in a course required for

1 graduation the opportunity, to the extent practicable, to complete the  
2 course, at no cost to the student, before the beginning of the next school  
3 year;

- 4 3. Awarding a diploma, at the student's request, by a district from which  
5 the student transferred, if the student transfers schools at any time after  
6 the completion of the student's second year of high school and the  
7 student is ineligible to graduate from the district to which the student  
8 transfers, but meets the graduation requirements of the district from  
9 which the student transferred; and
- 10 4. Exempting the student from all coursework and other requirements  
11 imposed by the local board of education that are in addition to the  
12 minimum requirements for high school graduation established by the  
13 Kentucky Board of Education pursuant to paragraph (d) of this  
14 subsection in the district to which the student transfers, if the student  
15 transfers schools at any time after the completion of the student's second  
16 year of high school and the student is ineligible to graduate both from  
17 the district to which the student transfers and the district from which the  
18 student transferred.

19 (2) (a) At the request of a local board of education or a school council, a local school  
20 district superintendent shall request that the Kentucky Board of Education  
21 waive any administrative regulation promulgated by that board. Beginning in  
22 the 1996-97 school year, a request for waiver of any administrative regulation  
23 shall be submitted to the Kentucky Board of Education in writing with  
24 appropriate justification for the waiver. The Kentucky Board of Education  
25 may approve the request when the school district or school has demonstrated  
26 circumstances that may include but are not limited to the following:

- 27 1. An alternative approach will achieve the same result required by the

- 1 administrative regulation;
- 2 2. Implementation of the administrative regulation will cause a hardship on
- 3 the school district or school or jeopardize the continuation or
- 4 development of programs; or
- 5 3. There is a finding of good cause for the waiver.
- 6 (b) The following shall not be subject to waiver:
- 7 1. Administrative regulations relating to health and safety;
- 8 2. Administrative regulations relating to civil rights;
- 9 3. Administrative regulations required by federal law; and
- 10 4. Administrative regulations promulgated in accordance with KRS
- 11 158.6451, 158.6453, 158.6455, and this section, relating to measurement
- 12 of performance outcomes and determination of successful districts or
- 13 schools, except upon issues relating to the grade configuration of
- 14 schools.
- 15 (c) Any waiver granted under this subsection shall be subject to revocation upon
- 16 a determination by the Kentucky Board of Education that the school district or
- 17 school holding the waiver has subsequently failed to meet the intent of the
- 18 waiver.
- 19 (3) Any private, parochial, or church school may voluntarily comply with curriculum,
- 20 certification, and textbook standards established by the Kentucky Board of
- 21 Education **and employment standards as described in Section 4 of this Act**, and be
- 22 certified upon application to the board by such schools.
- 23 (4) Any public school that violates the provisions of KRS 158.854 shall be subject to a
- 24 penalty to be assessed by the commissioner of education as follows:
- 25 (a) The first violation shall result in a fine of no less than one (1) week's revenue
- 26 from the sale of the competitive food;
- 27 (b) Subsequent violations shall result in a fine of no less than one (1) month's

- 1 revenue from the sale of the competitive food;
- 2 (c) "Habitual violations," which means five (5) or more violations within a six (6)
- 3 month period, shall result in a six (6) month ban on competitive food sales for
- 4 the violating school; and
- 5 (d) Revenue collected as a result of the fines in this subsection shall be
- 6 transferred to the food service fund of the local school district.

7 ➔Section 4. KRS 160.151 is amended to read as follows:

8 **(1) For purposes of this section, "certified nonpublic school" means a private,**

9 **parochial, or church school that has voluntarily been certified by the Kentucky**

10 **Board of Education in accordance with subsection (3) of Section 3 of this Act.**

- 11 ~~(2)(1)~~ (a) 1. A **certified nonpublic school shall**~~[private, parochial, or church~~
- 12 ~~school that has voluntarily been certified by the Kentucky Board of~~
- 13 ~~Education in accordance with KRS 156.160(3) may]~~ require a national
- 14 and state criminal background check and require a clear CA/N check, as
- 15 defined in KRS 160.380, on all new certified hires in the school and
- 16 student teachers assigned to the school and may require a new national
- 17 and state criminal background check and require a clear CA/N check on
- 18 each certified teacher once every five (5) years of employment.
- 19 2. Certified individuals who were employed in another certified position in
- 20 a Kentucky school within six (6) months of the date of the hire and who
- 21 had previously submitted to a national and state criminal background
- 22 check and were required to have a clear CA/N check for previous
- 23 employment may be excluded from the initial national or state criminal
- 24 background checks.
- 25 (b) The national criminal history background check shall be conducted by the
- 26 Federal Bureau of Investigation. The state criminal history background check
- 27 shall be conducted by the Department of Kentucky State Police or the

1 Administrative Office of the Courts.

2 (c) All fingerprints requested under this section shall be on an applicant  
3 fingerprint card provided by the Department of Kentucky State Police. The  
4 fingerprint cards shall be forwarded to the Federal Bureau of Investigation by  
5 the Department of Kentucky State Police after a state criminal background  
6 check has been conducted. Any fee charged by the Department of Kentucky  
7 State Police, the Administrative Office of the Courts, or the Federal Bureau of  
8 Investigation shall be an amount no greater than the actual cost of processing  
9 the request and conducting the search.

10 ~~(3)~~~~(2)~~ (a) **When a certified nonpublic**~~[If a]~~ school requires a criminal background  
11 check or requires a clear CA/N check **under this section**~~[for a new hire]~~, the  
12 school shall conspicuously include the following disclosure statement on each  
13 application or renewal form provided by the employer to an applicant for a  
14 certified position: "STATE LAW AUTHORIZES THIS SCHOOL TO  
15 REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK AND A  
16 LETTER, **PROVIDED BY THE INDIVIDUAL**, FROM THE CABINET  
17 FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT  
18 **HAS NO ADMINISTRATIVE FINDINGS OF**~~[IS CLEAR TO HIRE~~  
19 ~~BASED ON NO FINDINGS OF SUBSTANTIATED]~~ CHILD ABUSE OR  
20 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD  
21 ABUSE AND NEGLECT RECORDS **MAINTAINED BY THE CABINET**  
22 **FOR HEALTH AND FAMILY SERVICES**~~[AS A CONDITION OF~~  
23 ~~EMPLOYMENT FOR THIS TYPE OF POSITION]."~~

24 (b) The school or school board may require an adult who is permitted access to  
25 school grounds on a regularly scheduled and continuing basis pursuant to a  
26 written agreement for the purpose of providing services directly to a student  
27 or students as part of a school-sponsored program or activity, a volunteer, or a

1 visitor to submit to a national criminal history check by the Federal Bureau of  
 2 Investigation and state criminal history background check by the Department  
 3 of Kentucky State Police or Administrative Office of the Courts and require a  
 4 clear CA/N check.

5 (c) Any request for records from the Department of Kentucky State Police under  
 6 this section shall be on an applicant fingerprint card provided by the  
 7 Department of Kentucky State Police if required. The results of the state  
 8 criminal background check and the results of the national criminal history  
 9 background check~~[, if requested,]~~ shall be sent to the hiring superintendent.  
 10 When~~if~~ a background check of child abuse and neglect records is requested,  
 11 the person seeking employment shall provide to the hiring superintendent a  
 12 clear CA/N check.

13 (d) Any fee charged by the Department of Kentucky State Police shall be an  
 14 amount no greater than the actual cost of processing the request and  
 15 conducting the search.

16 (e) Every five (5) years from the year an individual was required to submit to a  
 17 national and state criminal history background check under paragraph (a)  
 18 of this subsection, a certified nonpublic school shall require the individual  
 19 to submit to a state criminal records check as described in subsection (7)(e)  
 20 of Section 2 of this Act.

21 ~~(4)~~~~(3)~~ (a) A certified nonpublic school shall~~[voluntarily implementing the~~  
 22 ~~provisions of this chapter may choose]~~ not~~[to]~~ employ any person who is a  
 23 violent offender as defined by KRS 17.165(2), has been convicted of a sex  
 24 crime which is classified as a felony as defined by KRS 17.165(1), or has  
 25 committed a violent crime as defined in KRS 17.165(3) or persons with a  
 26 substantiated finding of child abuse or neglect in records maintained by the  
 27 Cabinet for Health and Family Services. A certified nonpublic school may

1 employ, at its discretion, persons convicted of sex crimes classified as a  
2 misdemeanor.

3 (b) If a school term has begun and a certified position remains unfilled or if a  
4 vacancy occurs during a school term, a certified nonpublic school  
5 ~~[implementing this chapter]~~ may employ an individual who will have  
6 supervisory or disciplinary authority over minors on probationary status  
7 pending receipt of a criminal history background check or the receipt of a  
8 clear CA/N check, provided by the individual.

9 (c) Employment, including probationary employment, at a certified nonpublic  
10 school shall~~[implementing this chapter may]~~ be contingent on the receipt of a  
11 criminal history background check documenting that the employee has no~~[a]~~  
12 record as a violent offender, of a sex crime, or of a violent crime as defined in  
13 KRS 17.165 and~~[or]~~ the receipt of a clear CA/N check, provided by the  
14 individual.

15 ~~[(d) Nonpublic schools implementing this chapter may terminate probationary  
16 employment under this section upon receipt of a criminal history background  
17 check documenting a record as a violent offender, of a sex crime, or of a  
18 violent crime as defined in KRS 17.165 or the receipt of a clear CA/N check.]~~

19 ~~(5)~~~~[(4)]~~ The form for requesting a clear CA/N check shall be made available on the  
20 Cabinet for Health and Family Services website~~[Web site]~~.

21 (6) A certified nonpublic school considering an applicant for employment shall  
22 contact each nonpublic school or school district that previously employed the  
23 applicant for a reference check in accordance with standards established by the  
24 Kentucky Board of Education.

25 (7) A certified nonpublic school shall not enter into a nondisclosure agreement  
26 relating to misconduct involving a minor or student, including sexual misconduct  
27 and conduct subject to mandatory reporting under KRS 620.030.

1           ➔Section 5. KRS 156.095 is amended to read as follows:

- 2       (1) The Kentucky Department of Education shall establish, direct, and maintain a  
3           statewide program of professional development to improve instruction in the public  
4           schools.
- 5       (2) Each local school district superintendent shall appoint a certified school employee  
6           to fulfill the role and responsibilities of a professional development coordinator  
7           who shall disseminate professional development information to schools and  
8           personnel. Upon request by a school council or any employees of the district, the  
9           coordinator shall provide technical assistance to the council or the personnel that  
10          may include assisting with needs assessments, analyzing school data, planning and  
11          evaluation assistance, organizing districtwide programs requested by school  
12          councils or groups of teachers, or other coordination activities.
- 13       (a) The manner of appointment, qualifications, and other duties of the  
14           professional development coordinator shall be established by Kentucky Board  
15           of Education through promulgation of administrative regulations.
- 16       (b) The local district professional development coordinator shall participate in the  
17           Kentucky Department of Education annual training program for local school  
18           district professional development coordinators. The training program may  
19           include, but not be limited to, the demonstration of various approaches to  
20           needs assessment and planning; strategies for implementing long-term,  
21           school-based professional development; strategies for strengthening teachers'  
22           roles in the planning, development, and evaluation of professional  
23           development; and demonstrations of model professional development  
24           programs. The training shall include information about teacher learning  
25           opportunities relating to the core content standards. The Kentucky Department  
26           of Education shall regularly collect and distribute this information.
- 27       (3) The Kentucky Department of Education shall provide or facilitate optional,

1 professional development programs for certified personnel throughout the  
2 Commonwealth that are based on the statewide needs of teachers, administrators,  
3 and other education personnel. Programs may include classified staff and parents  
4 when appropriate. Programs offered or facilitated by the department shall be at  
5 locations and times convenient to local school personnel and shall be made  
6 accessible through the use of technology when appropriate. They shall include  
7 programs that: address the goals for Kentucky schools as stated in KRS 158.6451,  
8 including reducing the achievement gaps as determined by an equity analysis of the  
9 disaggregated student performance data from the state assessment program  
10 developed under KRS 158.6453; engage educators in effective learning processes  
11 and foster collegiality and collaboration; and provide support for staff to  
12 incorporate newly acquired skills into their work through practicing the skills,  
13 gathering information about the results, and reflecting on their efforts. Professional  
14 development programs shall be made available to teachers based on their needs  
15 which shall include but not be limited to the following areas:

- 16 (a) Strategies to reduce the achievement gaps among various groups of students  
17 and to provide continuous progress;
- 18 (b) Curriculum content and methods of instruction for each content area,  
19 including differentiated instruction;
- 20 (c) School-based decision making;
- 21 (d) Assessment literacy;
- 22 (e) Integration of performance-based student assessment into daily classroom  
23 instruction;
- 24 (f) Nongraded primary programs;
- 25 (g) Research-based instructional practices;
- 26 (h) Instructional uses of technology;
- 27 (i) Curriculum design to serve the needs of students with diverse learning styles

- 1 and skills and of students of diverse cultures;
- 2 (j) Instruction in reading, including phonics, phonemic awareness,  
3 comprehension, fluency, and vocabulary;
- 4 (k) Educational leadership; and
- 5 (l) Strategies to incorporate character education throughout the curriculum.
- 6 (4) The department shall assist school personnel in assessing the impact of professional  
7 development on their instructional practices and student learning.
- 8 (5) The department shall assist districts and school councils with the development of  
9 long-term school and district improvement plans that include multiple strategies for  
10 professional development based on the assessment of needs at the school level.
- 11 (a) Professional development strategies may include but are not limited to  
12 participation in subject matter academies, teacher networks, training institutes,  
13 workshops, seminars, and study groups; collegial planning; action research;  
14 mentoring programs; appropriate university courses; and other forms of  
15 professional development.
- 16 (b) In planning the use of the four (4) days for professional development under  
17 KRS 158.070, school councils and districts shall give priority to programs that  
18 increase teachers' understanding of curriculum content and methods of  
19 instruction appropriate for each content area based on individual school plans.  
20 The district may use up to one (1) day to provide district-wide training and  
21 training that is mandated by state or federal law. Only those employees  
22 identified in the mandate or affected by the mandate shall be required to  
23 attend the training.
- 24 (c) State funds allocated for professional development shall be used to support  
25 professional development initiatives that are consistent with local school  
26 improvement and professional development plans and teachers' individual  
27 growth plans. The funds may be used throughout the year for all staff,

1 including classified and certified staff and parents on school councils or  
2 committees. A portion of the funds allocated to each school council under  
3 KRS 160.345 may be used to prepare or enhance the teachers' knowledge and  
4 teaching practices related to the content and subject matter that are required  
5 for their specific classroom assignments.

6 (6) (a) By August 1, 2010, the Kentucky Cabinet for Health and Family Services  
7 shall post on its web page suicide prevention awareness information, to  
8 include recognizing the warning signs of a suicide crisis. The web page shall  
9 include information related to suicide prevention training opportunities  
10 offered by the cabinet or an agency recognized by the cabinet as a training  
11 provider.

12 (b) By September 15 of each year, every public school shall provide suicide  
13 prevention awareness information in person, by live streaming, or via a video  
14 recording to all students in grades six (6) through twelve (12). The  
15 information may be obtained from the Cabinet for Health and Family Services  
16 or from a commercially developed suicide prevention training program.

17 (c) 1. Beginning with the 2018-2019 school year, and every year thereafter, a  
18 minimum of one (1) hour of high-quality suicide prevention training,  
19 including the recognition of signs and symptoms of possible mental  
20 illness, shall be required for all school district employees with job duties  
21 requiring direct contact with students in grades six (6) through twelve  
22 (12). The training shall be provided either in person, by live streaming,  
23 or via a video recording and may be included in the four (4) days of  
24 professional development under KRS 158.070.

25 2. When a staff member subject to the training under subparagraph 1. of  
26 this paragraph is initially hired during a school year in which the  
27 training is not required, the local district shall provide suicide prevention

1 materials to the staff member for review.

2 (d) The requirements of paragraphs (b) and (c) of this subsection shall apply to  
3 public charter schools as a health and safety requirement under KRS  
4 160.1592(1).

5 (7) (a) By November 1, 2019, and November 1 of each year thereafter, a minimum of  
6 one (1) hour of training on how to respond to an active shooter situation shall  
7 be required for all school district employees with job duties requiring direct  
8 contact with students. The training shall be provided either in person, by live  
9 streaming, or via a video recording prepared by the Kentucky Department of  
10 Criminal Justice Training in collaboration with the Kentucky Law  
11 Enforcement Council, the Kentucky Department of Education, and the Center  
12 for School Safety and may be included in the four (4) days of professional  
13 development under KRS 158.070.

14 (b) When a staff member subject to the training requirements of this subsection is  
15 initially hired after the training has been provided for the school year, the  
16 local district shall provide materials on how to respond to an active shooter  
17 situation.

18 (c) The requirements of this subsection shall also apply to public charter schools  
19 as a health and safety requirement under KRS 160.1592(1).

20 (8) (a) The Kentucky Department of Education shall develop and maintain a list of  
21 approved comprehensive evidence-informed trainings on child abuse and  
22 neglect prevention, recognition, and reporting that encompass child physical,  
23 sexual, and emotional abuse and neglect.

24 (b) The trainings shall be web-based or in-person and cover, at a minimum, the  
25 following topics:

- 26 1. Recognizing child physical, sexual, and emotional abuse and neglect;
- 27 2. Reporting suspected child abuse and neglect in Kentucky as required by

- 1                   KRS 620.030 and the appropriate documentation;
- 2                   3.    Responding to the child; and
- 3                   4.    Understanding the response of child protective services.
- 4                   (c)   The trainings shall include a questionnaire or other basic assessment tool upon
- 5                   completion to document basic knowledge of training components.
- 6                   (d)   Each local board of education shall adopt one (1) or more trainings from the
- 7                   list approved by the Department of Education to be implemented by schools.
- 8                   (e)   All current school administrators, certified personnel, office staff,
- 9                   instructional assistants, and coaches and extracurricular sponsors who are
- 10                  employed by the school district shall complete the implemented training or
- 11                  trainings by January 31, 2017, and then every two (2) years after.
- 12                  (f)   All school administrators, certified personnel, office staff, instructional
- 13                  assistants, and coaches and extracurricular sponsors who are employed by the
- 14                  school district hired after January 31, 2017, shall complete the implemented
- 15                  training or trainings within ninety (90) days of being hired and then every two
- 16                  (2) years after.
- 17                  (g)   Every public school shall prominently display the statewide child abuse
- 18                  hotline number administered by the Cabinet for Health and Family Services,
- 19                  and the National Human Trafficking Reporting Hotline number administered
- 20                  by the United States Department for Health and Human Services.
- 21                  (9)   *(a) By May 1, 2024, the Kentucky Department of Education, in collaboration*
- 22                  *with the Education Professional Standards Board, shall develop a training*
- 23                  *for school district employees, to be provided via video recording, related to*
- 24                  *appropriate relationships and communication with students, inappropriate*
- 25                  *relationships and communication with students, sexual grooming, and*
- 26                  *sexual misconduct.*
- 27                  *(b) Beginning with the 2024-2025 school year, and every five (5) years*

1           thereafter, every local school district shall require all employees to undergo  
2           the training described in paragraph (a) of this subsection.

3           (c) When an employee is hired by a district during a school year in which the  
4           training is not required, the school district shall require the employee to  
5           complete the training within ninety (90) days of hiring.

6           (d) The requirements of this subsection shall apply to public charter schools as  
7           a health and safety requirement under KRS 160.1592(1).

8           **(10)** The Department of Education shall establish an electronic consumer bulletin board  
9           that posts information regarding professional development providers and programs  
10          as a service to school district central office personnel, school councils, teachers, and  
11          administrators. Participation on the electronic consumer bulletin board shall be  
12          voluntary for professional development providers or vendors, but shall include all  
13          programs sponsored by the department. Participants shall provide the following  
14          information: program title; name of provider or vendor; qualifications of the  
15          presenters or instructors; objectives of the program; program length; services  
16          provided, including follow-up support; costs for participation and costs of  
17          materials; names of previous users of the program, addresses, and telephone  
18          numbers; and arrangements required. Posting information on the bulletin board by  
19          the department shall not be viewed as an endorsement of the quality of any specific  
20          provider or program.

21          **(11)**~~**(10)**~~ The Department of Education shall provide training to address the  
22          characteristics and instructional needs of students at risk of school failure and most  
23          likely to drop out of school. The training shall be developed to meet the specific  
24          needs of all certified and classified personnel depending on their relationship with  
25          these students. The training for instructional personnel shall be designed to provide  
26          and enhance skills of personnel to:

27          (a) Identify at-risk students early in elementary schools as well as at-risk and

- 1 potential dropouts in the middle and high schools;
- 2 (b) Plan specific instructional strategies to teach at-risk students;
- 3 (c) Improve the academic achievement of students at risk of school failure by
- 4 providing individualized and extra instructional support to increase
- 5 expectations for targeted students;
- 6 (d) Involve parents as partners in ways to help their children and to improve their
- 7 children's academic progress; and
- 8 (e) Significantly reduce the dropout rate of all students.

9 ~~(12)~~~~(11)~~ The department shall establish teacher academies to the extent funding is

10 available in cooperation with postsecondary education institutions for elementary,

11 middle school, and high school faculty in core disciplines, utilizing facilities and

12 faculty from universities and colleges, local school districts, and other appropriate

13 agencies throughout the state. Priority for participation shall be given to those

14 teachers who are teaching core discipline courses for which they do not have a

15 major or minor or the equivalent. Participation of teachers shall be voluntary.

16 ~~(13)~~~~(12)~~ The department shall annually provide to the oversight council established in

17 KRS 15A.063, the information received from local schools pursuant to KRS

18 158.449.

19 ➔Section 6. KRS 161.151 is amended to read as follows:

- 20 (1) **Except as provided in Section 2 of this Act,** all records and references relating to an
- 21 allegation of a criminal offense committed by a school employee that did not lead to
- 22 formal charges and all records relating to a criminal proceeding in which a school
- 23 employee was found not guilty or the charges were dismissed shall be removed
- 24 from the school employee's personnel file by the superintendent or the
- 25 superintendent's designee in the local school district.
- 26 (2) The provisions of subsection (1) of this section shall not preclude a school district
- 27 from separately investigating, taking action upon, and creating and maintaining

1 records on the same or a similar fact situation upon which the allegations of a  
2 criminal offense was based.