

1 AN ACT relating to education.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 6 and 7 of this Act:*

- 6 *(1) "Biological sex" means the physical condition of being male or female, as*
7 *determined by a person's unambiguous internal and external genitalia or, if*
8 *necessary, sex chromosomes present at birth, and formally recognized on the*
9 *person's original birth certificate or the child's school enrollment documentation;*
- 10 *(2) "Child" means a person who has not reached the age of eighteen (18);*
- 11 *(3) "Community standard state of dress" means the condition of being fully clothed,*
12 *or partially or fully unclothed in which the bodily coverage by opaque clothing is*
13 *appropriate as determined by the average adult citizen of the Commonwealth*
14 *applying contemporary community standards of what is appropriate dress, given:*
- 15 *(a) The age, biological sex, and other demographic factors of the unclothed*
16 *person;*
- 17 *(b) The age, biological sex, familial relation, and other demographic factors of*
18 *persons able to view the person within the situational context; and*
- 19 *(c) The conditions of expectation of privacy within the situational context;*
- 20 *(4) "Parent" means any biological, foster, or adoptive parent, de facto custodian as*
21 *defined in KRS 403.270, legal guardian who has legal custody of a child, or any*
22 *adult caregiver authorized to make school-related decisions for a child under*
23 *KRS 158.144, whose custody of the child has not been suspended or terminated*
24 *by a court order;*
- 25 *(5) "Public school" means any school district or public charter school organization,*
26 *any public school operated by those entities, the governing boards of those*
27 *entities, and the employees, agents, and officers of those entities; and*

1 (6) "School enrollment documentation" means either:

2 (a) A certified copy of the child's birth certificate; or

3 (b) Other reliable proof of the child's identity, age, and biological sex and an
4 affidavit of the inability to produce a copy of the birth certificate as provided
5 upon enrollment of the child for the first time in any primary or secondary
6 school to fulfill the requirements of KRS 158.032.

7 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
8 READ AS FOLLOWS:

9 (1) As it relates to public education, the General Assembly hereby finds and declares
10 that:

11 (a) A parent of a child shall have the fundamental right to make decisions
12 concerning the child's care, custody, and control without obstruction or
13 interference from a public school. As it relates to public schools, this shall
14 include the:

15 1. Right to make decisions concerning the child's education, including
16 the right to cause the child to be educated in any manner that meets
17 the compulsory attendance requirements and exemptions established
18 in KRS 159.010 and 159.030 and in any other manner established by
19 statute or the Constitution of the Commonwealth of Kentucky; and

20 2. High duty and right to nurture and direct their children's destiny,
21 including their upbringing and education; mental, emotional, and
22 physical health care; and moral and religious development;

23 (b) The interests and role of parents in the care, custody, and control of their
24 children are implicit in the concept of ordered liberty, deeply embedded in
25 our nation's history and tradition, and among the unalienable rights
26 retained by the people under the Ninth Amendment to the Constitution of
27 the United States;

- 1 (c) A parent of a child in this Commonwealth has inalienable rights that are
2 more comprehensive than those listed in Sections 1 to 6 and 7 of this Act,
3 unless such rights have been lawfully waived or terminated;
- 4 (d) The Commonwealth has independent authority to protect the parental rights
5 of its citizens; and
- 6 (e) The rights recognized and the protections established in Sections 1 to 6 and
7 7 of this Act as they are related to public school are rooted in the right to
8 due process of law guaranteed pursuant to the Constitution of the United
9 States.
- 10 (2) The public schools of the Commonwealth shall not violate a parent's
11 fundamental rights identified in Sections 1 to 6 and 7 of this Act. Any restriction
12 of or interference with these rights shall not be upheld unless it is demonstrated
13 by clear and convincing evidence to be:
- 14 (a) Essential to further a compelling governmental interest; and
- 15 (b) The least restrictive means available for the furthering of that compelling
16 governmental interest.
- 17 (3) To guard the rights established in Sections 1 to 6 and 7 of this Act, each local
18 board of education and charter school board of directors shall establish a process
19 to receive complaints regarding violations of those rights that includes:
- 20 (a) A designated recipient of complaints for each school;
- 21 (b) The procedure for submission of the complaint;
- 22 (c) Written confirmation to the parent that the complaint has been received
23 within five (5) business days of receipt of the complaint;
- 24 (d) A written response to the complaint within thirty (30) business days of
25 receipt of the complaint that outlines how the school will resolve the
26 complaint or a written statement of the specific reasons for not resolving the
27 complaint; and

- 1 (e) A final written determination of the merits of the complaint and the actions
2 taken, if any, by the school to resolve the complaint within sixty (60) days
3 following the receipt of the complaint or the basis for taking no action.
- 4 (4) (a) After exhausting the complaint process established in subsection (3) of this
5 section without satisfactory resolution, or if the school does not issue the
6 final written determination within the time established under subsection (3)
7 of this section, a parent shall have a civil cause of action.
- 8 (b) The complaint shall be filed within sixty (60) days of the school's failure to
9 comply within the time established under subsection (3) of this section or
10 within sixty (60) days of the final written determination, whichever occurs
11 last.
- 12 (c) The action shall be brought in the Circuit Court of the county in which the
13 school is located or the parent resides.
- 14 (d) Remedies available to a parent under this subsection shall include:
- 15 1. Declaratory relief;
16 2. Injunctive relief to prevent or remedy a violation of Sections 1 to 6 or
17 7 of this Act or the effects of such a violation;
18 3. Compensatory damages for pecuniary or nonpecuniary losses;
19 4. Reasonable attorney's fees and costs; and
20 5. Any other appropriate relief.
- 21 (e) If a parent brings an unsuccessful civil action against a public school, the
22 parent shall not be required to pay any associated attorney's fees or costs
23 incurred by the public school.
- 24 (f) All claims shall be initiated within one (1) year of the violation.
- 25 (5) Nothing in Sections 1 to 6 and 7 of this Act shall be construed:
- 26 (a) To prescribe all rights held by the parent of a child in this state; or
27 (b) As altering the established presumption in favor of the constitutionality of

1 statutes and regulations.

2 (6) Any portion or section of Sections 1 to 6 and 7 of this Act declared invalid shall
3 not affect the validity of the remaining portions or sections of Sections 1 to 6 and
4 7 of this Act.

5 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
6 READ AS FOLLOWS:

7 (1) In accordance with Section 2 of this Act, a parent shall have the following rights
8 as they relate to the parent's child and a public school:

9 (a) To access and review:

10 1. All education records relating to his or her minor child as provided in
11 KRS 160.700 to 160.730;

12 2. Any record associated with the selection or approval of any guest
13 lecturer, guest instructor, or outside presenter who participates in the
14 child's education;

15 3. Any records in the possession of the school relating to third-party
16 individuals and organizations contracted with the school that the child
17 attends; and

18 4. Any student well-being questionnaire or health screening form used
19 for research purposes;

20 (b) To provide consent prior to:

21 1. A well-being questionnaire or health screening form used for research
22 purposes being given to the child. A school shall not require a grant of
23 general consent to these questionnaires or forms by a parent, but shall
24 request consent specific to each questionnaire or form to be provided
25 to the child;

26 2. A biometric scan of the child is made, shared, or stored by a school;

27 3. Any record of the child's blood or deoxyribonucleic acid is created,

- 1 stored, or shared by a school, except as required by law and authorized
2 pursuant to a court order; and
- 3 4. Each video or voice recording of the child is made by a school unless
4 it is made during or as part of a court-ordered proceeding or a
5 forensic interview in a criminal investigation or is to be used primarily
6 for the following purposes:
- 7 a. Documentation of regular classroom instruction, such as
8 participation in journalism;
- 9 b. Security or surveillance of buildings, grounds, or transportation
10 vehicles; or
- 11 c. Documentation of an extracurricular activity or public event
12 where recording is common practice;
- 13 (c) To know the people to whom and material to which the child is exposed
14 while on property owned, leased, or operated by the school;
- 15 (d) To know the identity of the people and entities, including but not limited to
16 organizations, agencies, third-party clearinghouses, and consultants, that
17 have accessed the child's education records, whether authorized by the
18 school or not;
- 19 (e) To access and review information identified in this section without entering
20 into a nondisclosure agreement;
- 21 (f) To access and review, in physical or digital format, and make copies of any
22 curricular documents, books, and other educational materials used in the
23 child's education;
- 24 (g) To receive, without request, any course syllabus or course reading list prior
25 to the child's beginning of the coursework or upon the child's enrollment in
26 the course;
- 27 (h) To visit his or her child at school during school hours unless the visit would

- 1 *disrupt the educational process of other children;*
- 2 *(i) To be provided a consent form prior to, and give written prior consent:*
- 3 *1. To each specific nonemergency health care service provided by the*
- 4 *school to the child;*
- 5 *2. To each and every session of nonemergency mental health care service*
- 6 *provided by the school to the child;*
- 7 *3. That is not a grant of general consent but is specific to each service*
- 8 *provided to the child;*
- 9 *4. That shall not waive the parent's right to access the child's education*
- 10 *or health records or the right to receive notifications required by this*
- 11 *section; and*
- 12 *5. That, if not obtained from the parent, shall prohibit the school from*
- 13 *providing that service;*
- 14 *(j) To be notified:*
- 15 *1. At the beginning of each school year, or upon enrollment, of all*
- 16 *programs and health care services offered at the child's school;*
- 17 *2. Of major changes in his or her child's mental, emotional, and physical*
- 18 *health and well-being, including but not limited to:*
- 19 *a. Significant changes to the child's gender expression;*
- 20 *b. Any request to be referred to by a name, pronoun, or other*
- 21 *identifier inconsistent with the school enrollment documentation*
- 22 *submitted in accordance to KRS 158.032;*
- 23 *c. Indicators of eating disorders;*
- 24 *d. Indicators of chemical dependency;*
- 25 *e. Evidence of pregnancy, whether the result of consensual or*
- 26 *nonconsensual sexual activity;*
- 27 *f. Evidence of self-harm; and*

- 1 g. Evidence of suicidal or violent ideation or intention;
- 2 3. At the beginning of the school year and upon a change of status,
- 3 whether the child's school campus is assigned a school resource
- 4 officer or not;
- 5 4. Within one (1) business day of the school attaining knowledge, of the
- 6 occurrence of the following incidents on the campus of the school the
- 7 child attends:
- 8 a. Physical assault;
- 9 b. Sexual assault;
- 10 c. Unlawful possession of a weapon on school property;
- 11 d. Unlawful drug use or possession;
- 12 e. Police investigations, unless no report is requested by police;
- 13 f. Notice to the parent of the parent's child being involved in a
- 14 bullying incident, as defined in Section 7 of this Act; and
- 15 g. Regardless of the incident's location, serious crimes such as
- 16 capital offenses, felonies, or Class A misdemeanors, of which a
- 17 teacher or other school employee who works at the child's school
- 18 campus is charged or convicted; and
- 19 5. At the beginning of the school year or upon enrollment of a report
- 20 compiling the incidents outlined in subparagraph 4. of this paragraph
- 21 from the previous school year;
- 22 (k) To request and receive, without charge, one (1) copy of all information
- 23 identified in this subsection related to the child; and
- 24 (l) The rights outlined in the Sections 1 to 6 and 7 of this Act.
- 25 (2) To guard the rights outlined in Sections 1 to 6 and 7 of this Act, each local board
- 26 of education or charter school board of directors shall take necessary actions and
- 27 shall adopt policies and procedures to:

- 1 (a) Notify the parents of each enrolled child at the beginning of the school year
2 or upon enrollment of the parental rights outlined in Sections 1 to 6 and 7
3 of this Act;
- 4 (b) Ensure that no information relating to a child that requires prior consent
5 under Sections 1 to 6 of this Act is created, collected, stored, or shared
6 without the prior consent of the parent;
- 7 (c) Ensure that no service or activity relating to a child that requires prior
8 consent under Sections 1 to 6 of this Act is conducted without the prior
9 consent of the parent;
- 10 (d) Provide prompt notification without solicitation, request, or inquiry from a
11 parent as required by Sections 1 to 6 and 7 of this Act;
- 12 (e) Provide the opportunity to access, review, and receive in digital form,
13 without charge, any requested information involving a parent's minor child
14 as permitted by Sections 1 to 6 of this Act, upon the written request of the
15 parent, within five (5) business days of the receipt of the request;
- 16 (f) Notify parents of major changes in their child's mental, emotional, and
17 physical health and well-being, including but not limited to those listed in
18 subsection (1)(j) of this section;
- 19 (g) Prohibit any teacher or other school employee from withholding any
20 information concerning a child's academic record or mental, emotional, or
21 physical well-being, including but not limited to those referenced in
22 subsection (1)(j) of this section, from the child's parent;
- 23 (h) Prohibit any teacher or other school employee from coercing or
24 discouraging a child from sharing any information concerning the child's
25 academic record or mental, emotional, or physical well-being with his or
26 her parent, including but not limited to those listed in subsection (1)(j) of
27 this section;

1 (i) Prohibit the funding of any professional development activity, consultant
2 services, trainings, or incentives, or the adoption of any policies, practices,
3 or procedures, that:

4 1. Advise, compel, or incentivize any teacher, school employee, or
5 presenter to use pronouns that are inconsistent with the information
6 on the child's school enrollment documentation;

7 2. Discourage, punish, or disadvantage a teacher, school employee, or
8 presenter in any way for refusal or failure to use a name or other
9 identifier in reference to a child that is inconsistent with the child's
10 information listed on the school enrollment documentation;

11 3. Assert that possessing any set of immutable characteristics makes a
12 person in any way responsible for, or a contributor to, the suffering or
13 adverse conditions experienced by another group of people; or

14 4. Advise, compel, or incentivize any persons to:

15 a. Segregate or form affinity groups according to any protected
16 class;

17 b. Engage in any activity meant to separate persons based upon any
18 immutable characteristic with the intent or effect of ascribing
19 disadvantage, advantage, inferiority, or superiority; or

20 c. Assert that a person, simply by virtue of any immutable
21 characteristic, is inherently more valuable than another person
22 or better qualified to understand or empathize with persons with
23 that characteristic; and

24 (j) 1. Prohibit the imposition of any requirement on any child as a condition
25 for school admittance or attendance, employment, participation in or
26 attendance at extra-curricular activities, or access or use of property
27 located in the Commonwealth of Kentucky, whether owned, leased, or

- 1 operated by the institution, to:
2 a. Force the use of any type of medical device, including but not
3 limited to any type of facial coverings; or
4 b. Submit to any type of medical procedure or treatment, including
5 but not limited to any type of vaccination or testing unless
6 otherwise directed by a court of competent jurisdiction.

- 7 2. Nothing in this paragraph shall:
8 a. Contradict the requirements of KRS 158.035 regarding
9 certificates of immunization;
10 b. Apply to nonmedical safety equipment used as a precaution to
11 avoid bodily injuries in athletic activities, physical education
12 instruction, extracurricular activities, classroom instruction, or
13 demonstrations involving dangerous materials or activities;
14 c. Apply to a physical examinations or fitness required to
15 participate or resume participation in any interscholastic athletic
16 activity; or
17 d. Invalidate requirements, including those of students that have
18 curricular or work responsibilities, necessary for student
19 presence in a medical setting.

20 (3) The Kentucky Department of Education and the Kentucky Board of Education
21 shall:

- 22 (a) Eliminate any administrative regulations or recommended practices or
23 procedures that are inconsistent with Sections 1 to 6 and 7 of this Act; and
24 (b) Develop and recommend best practices to facilitate compliance by schools
25 with Sections 1 to 6 and 7 of this Act.

26 (4) A school shall not be required to adopt or comply with the recommended best
27 practices developed under subsection (3)(b) of this section, so long as the school

1 complies with Sections 1 to 6 and 7 of this Act.

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

4 (1) As it relates to public schools, the General Assembly hereby finds and declares
5 that:

6 (a) Children have natural and normal concerns about bodily privacy while
7 partially or completely unclothed, and most children prefer that members of
8 the opposite biological sex not be present in those circumstances;

9 (b) A parent has the right, when entrusting the supervision of his or her child to
10 a school, to not have:

11 1. His or her child permitted to view persons of the opposite sex outside
12 of the community standard state of dress;

13 2. Persons of the opposite sex permitted to view his or her child outside
14 of the community standard state of dress; and

15 3. Persons of the opposite sex in the presence of his or her child where
16 there is a reasonable expectation of bodily privacy;

17 (c) Allowing students to share private quarters, restrooms, locker rooms, or
18 shower rooms where there is a reasonable expectation of bodily privacy,
19 which are reserved for students of a different biological sex creates:

20 1. A significant potential for disruption of school activities and unsafe
21 conditions; and

22 2. Potential embarrassment and shame to children; and

23 (d) Providing children who object to the use of private quarters, restrooms,
24 locker rooms, or shower rooms designated for the child's biological sex with
25 reasonable alternative accommodations, if and when available, avoids
26 potential complications and serves to protect their dignity and safety.

27 (2) To safeguard the rights recognized in subsection (1) of this section:

- 1 (a) Every school shall respect and protect the bodily privacy of children and
2 shall not compel or permit a student to be outside a community standard
3 state of dress in the presence, or within view of members of the opposite
4 biological sex;
- 5 (b) In the private areas identified in subsection (1) of this section where there is
6 a reasonable expectation of bodily privacy, school personnel shall provide
7 areas designated for students separated by their biological sex; and
- 8 (c) A student who informs school officials that the student's gender expression
9 is, or will be, different from the student's biological sex and whose parent
10 provides written consent to the school shall be provided with reasonable
11 alternative facility accommodations, if available. Reasonable alternative
12 facility accommodations:
- 13 1. May include but are not limited to access to single-stall restrooms or
14 the controlled use of faculty bathrooms, locker rooms, or shower
15 rooms; and
- 16 2. Shall not include the use of school restrooms, locker rooms, or shower
17 rooms designated for use by persons of the opposite biological sex, or
18 the use of private quarters with members of the opposite biological sex
19 who are not family members of the student.
- 20 (3) While accessing private quarters, restrooms, locker rooms, or shower rooms
21 designated for use by the child's biological sex where there is a reasonable
22 expectation of bodily privacy, a child who encounters a person of the opposite
23 biological sex shall have a private cause of action against the school if school
24 personnel:
- 25 (a) Authorized the encountered person to use the facilities of the opposite
26 biological sex in the same manner as the child; or
- 27 (b) Failed to take reasonable steps to prevent the encountered person from

1 using facilities of the opposite biological sex in the same manner as the
2 child.

3 (4) Any student, teacher, or employee required by the school or school personnel to
4 share private quarters where there is a reasonable expectation of bodily privacy
5 with a member of the opposite biological sex shall have a cause of action against
6 the school, unless the person sharing the quarters is a family member of the
7 student, teacher, or employee, as applicable.

8 (5) Nothing in this section shall apply to the following persons:

9 (a) A child younger than six (6) years of age, who may be present in the
10 facilities designated for use by the opposite biological sex of the child if
11 accompanied by the child's caregiver of designated biological sex;

12 (b) A person engaged in sanctioned inspection, maintenance, janitorial, or
13 custodial activities if reasonable precautions are made to prevent being in
14 the presence of, or viewing, a person of the opposite sex;

15 (c) A medical professional engaging in the practices of the profession under the
16 accepted standard of care;

17 (d) A person rendering medical or other emergency services; or

18 (e) A person serving in a law enforcement or school safety capacity, including
19 but not limited to pursuing a fleeing criminal suspect, executing a duly
20 issued warrant, or conducting a school authorized activity.

21 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) For the purposes of this section, "controversial subject matter" means an issue
24 that is a point made in the electoral platform of a political party as defined in
25 KRS 118.015 and is contested by the electoral platform of another political party
26 at the local, state, or federal level.

27 (2) The General Assembly hereby finds and declares that:

- 1 (a) The common school environment and interactions between teachers and
2 students in kindergarten through grade twelve (12) are primarily intended
3 to facilitate the learning of approved curricula and development of approved
4 sets of skills; and
- 5 (b) The common school environment is not an appropriate place to engage in
6 teacher-led or teacher-promoted social or political advocacy with respect to
7 controversial subject matter.
- 8 (3) A parent has a right to have his or her child spend time at school primarily
9 learning approved curricula and developing approved sets of skills with no time
10 spent being indoctrinated into any partisan political position or being involved in
11 teacher-led or teacher-promoted social or political advocacy with respect to
12 controversial subject matter.
- 13 (4) In the school setting or while serving in the scope of duties of temporary, part-
14 time, or full-time employment at a school, a teacher, school employee, guest
15 lecturer, guest instructor, or outside presenter shall not:
- 16 (a) Discuss with or provide instruction to any student in kindergarten through
17 grade eight (8) on the topics of sexual orientation, sexual preference, or
18 gender expression inconsistent with biological sex;
- 19 (b) Discuss with or provide instruction to any student in grades nine (9)
20 through twelve (12) the topics of sexual orientation, sexual preference, or
21 gender expression inconsistent with biological sex, unless required for
22 instruction of the school's approved curriculum for the course being taught;
- 23 (c) Discuss the person's own sexual orientation, sexual preference, or gender
24 expression that is inconsistent with his or her biological sex with any
25 student; or
- 26 (d) Display slogans, emblems, phrases, or symbols within view of any student
27 on school property that are associated with any sexual orientation, sexual

1 preference, or gender expression inconsistent with biological sex.

2 (5) In the school setting or while serving in the scope of duties of temporary, part-
3 time, or full-time employment at a school, a teacher, school employee, guest
4 lecturer, guest instructor, or outside presenter shall:

5 (a) Not endorse, support, or oppose any candidate or nominee for public office
6 or any elected or appointed official of the local, state, or federal
7 government;

8 (b) Not endorse, support, or oppose any pending, proposed, or enacted
9 legislation or regulation at the local, state, or federal level in the presence of
10 students;

11 (c) Not endorse, support, or oppose any pending, proposed, or decided court
12 case or judicial action at the local, state, or federal level in the presence of
13 students;

14 (d) Not endorse, support, or oppose any pending, proposed, or executed
15 executive action at the local, state, or federal level in the presence of
16 students;

17 (e) Only introduce or discuss with students a controversial subject matter if it is
18 germane to the curriculum and topic of the course being taught and shall
19 not advocate in a partisan manner for a specific side;

20 (f) Not display slogans, emblems, phrases, flags, or symbols that are associated
21 with any controversial subject matter, including the confederate flag, with
22 the exception of historical American, patriotic, war, or battle slogans,
23 emblems, phrases, flags, or symbols, even if they may have since acquired
24 secondary associations with controversial subject matter;

25 (g) Not segregate students or form affinity groups of students according to any
26 protected class;

27 (h) Not engage in any activity meant to separate one (1) or more students based

- 1 upon any immutable characteristic with the intent or effect of ascribing
2 disadvantage, advantage, inferiority, or superiority;
- 3 (i) Not assert that a person, simply by virtue of any immutable characteristic, is
4 inherently more valuable than others, or better qualified to understand, or
5 empathize with, persons with that characteristic;
- 6 (j) Not assert that possessing any set of immutable characteristics makes a
7 person in any way responsible for, or a contributor to, the suffering or
8 adverse conditions experienced by another student or group of people; and
- 9 (k) Not encourage or coerce, or attempt to encourage or coerce, a child to
10 withhold any information about material or instruction presented to, or
11 conversation held with, the child from his or her parent.
- 12 (6) Notwithstanding the prohibitions on conduct in this section, a teacher, school
13 employee, guest lecturer, guest instructor, outside presenter, or student shall not
14 be compelled to endorse, affirm, support, oppose, or advocate for or against
15 anything in opposition to his or her sincerely held beliefs and convictions,
16 religious or otherwise, including but not limited to:
- 17 (a) Political candidates, parties, platforms, issues, judicial judgements,
18 legislation, regulation, executive order, or policies;
- 19 (b) Any position on controversial subject matter;
- 20 (c) Any position on a religious belief, dogma, doctrine, or practice;
- 21 (d) Any perspective on sexual orientation, sexual preference, or gender
22 expression; or
- 23 (e) The use of pronouns or other identifiers to refer to a person that are
24 inconsistent with the person's biological sex.
- 25 (7) In support of the rights outlined in this section, each local board of education or
26 charter school board of directors shall adopt policies and procedures to ensure
27 that:

- 1 (a) No funds are expended for any professional development, trainings, or
2 incentives that instruct, advise, reward, or compel any teacher, school
3 employee, or presenter to take a particular position on, or advocate for or
4 against, anything listed in subsection (5) or (6) of this section;
- 5 (b) No professional advantage, disadvantage, incentive, disincentive,
6 promotion, demotion, reward, or penalty of any type is conferred or
7 contingent upon a teacher, school employee, or presenter's willingness,
8 refusal, or failure to take a particular position on, or advocate for or
9 against, anything listed in subsection (5) or (6) of this section;
- 10 (c) All teachers, school employees, guest lecturers, guest instructors, and
11 outside presenters at a school are aware of the prohibitions of this section
12 and the penalties for willful violation; and
- 13 (d) All teachers, school employees, guest lecturers, guest instructors, and
14 outside presenters at a school comply with the prohibitions of this section
15 and that repeated willful violations are subject to dismissal.
- 16 (8) Nothing in this section shall prevent or limit:
- 17 (a) A school employee from conversationally referencing his or her own legal
18 spouse, without discussion of sexual conduct as defined in Section 6 of this
19 Act;
- 20 (b) The provision of one-on-one counseling or mental health or health care
21 services by an appropriately licensed professional employed to serve in that
22 capacity; or
- 23 (c) The requirement to address in an impartial and factual way topics that are
24 permissible under statute and approved by standard school district or public
25 charter school policies, and which satisfy all administrative regulations,
26 including but not limited to those established in the standards for the course
27 being taught.

1 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) As used in this section:

4 (a) "Distribute" means to transfer possession of or provide access to other
5 persons for observation, as might occur with matter in a common library,
6 performance, or digital streaming service, whether with or without
7 consideration;

8 (b) "Drag performance" means a performance in which a performer sings, lip
9 syncs, dances, reads, or otherwise performs before an audience for
10 entertainment while exhibiting a gender expression that is inconsistent with
11 the biological sex formally recognized on the performer's original birth
12 certificate using clothing, makeup, or other physical markers, and this
13 gender expression is a caricatured, advertised, or featured aspect of the
14 performance taken as a whole;

15 (c) "Harmful to minors" means that quality of any description, depiction, or
16 representation, in whatever form, of nudity, sexual conduct, sexual
17 excitement, or sadomasochistic abuse that:

18 1. Taken as a whole, appeals to the prurient interest of minors;

19 2. Is patently offensive to prevailing standards in the adult community as
20 a whole with respect to what is suitable for minors; and

21 3. Taken as a whole, lacks serious literary, artistic, political, or scientific
22 values for minors;

23 (d) "Matter" or "material" has the same meaning as matter in KRS 531.010;

24 (e) "Minor" has the same meaning as in KRS 500.080;

25 (f) "Nudity" or "nude" means the:

26 1. Showing of the human male or female genitals, pubic area, or
27 buttocks with less than a fully opaque covering;

1 2. Showing the female breast with less than a fully opaque covering of
2 any portion below the top of the nipple;

3 3. Depiction of covered male genitals in a discernibly turgid state;

4 (g) "Obscene" means;

5 1. To the average person, applying contemporary community standards,
6 the predominant appeal of the matter, taken as a whole, is a prurient
7 interest in nudity, sexual conduct, excretion, sexual stimulation, or
8 sexual gratification;

9 2. The matter depicts or describes the nudity, sexual conduct, excretion,
10 sexual stimulation, or sexual gratification in a patently offensive way;
11 and

12 3. The matter, taken as a whole, lacks serious literary, artistic, political,
13 or scientific value;

14 (h) "Obscene imagery representing minors" means a visual depiction of any
15 kind produced by any means, including but not limited to a drawing,
16 cartoon, sculpture, or painting, that:

17 1. a. Depicts a minor engaging in sexual conduct; and

18 b. Is obscene; or

19 2. a. Depicts an image that is or appears to be of a minor engaging in
20 graphic bestiality, sadomasochistic abuse, or sexual intercourse;
21 and

22 b. Lacks serious literary, artistic, political, or scientific value;

23 (i) "Performance" means any physical human bodily activity, including
24 singing, dancing, speaking, acting, simulating, or pantomiming or any play,
25 motion picture, exhibition, or presentation, whether picture, animated, live,
26 or recorded, that is intended for an audience of one (1) or more persons;

27 (j) "Prurient interest" means an erotic, lascivious, degrading, shameful, or

1 morbid interest in defecation, urination, nudity, sexual conduct, sexual
2 stimulation, or sexual gratification;

3 (k) "Sadomasochistic abuse" means flagellation, torture, or physical restraint
4 by or upon a person for the purpose of sexual gratification of either person;

5 (l) "Serious literary, artistic, political, or scientific value" or "serious literary,
6 artistic, political, or scientific value for minors" means that a performance's
7 or matter's main contribution and importance, taken on the whole
8 exclusively in one (1) of the specific and limited literary, artistic, political, or
9 scientific areas is sufficient that a reasonable person would determine it
10 substantially outweighs the totality of the government's compelling interests
11 in limiting access to matter or performances that, if made widely available,
12 would among other harms:

13 1. Weaken public morality;

14 2. Promote disorder;

15 3. Exacerbate the public health crises related to pornography recognized
16 by the General Assembly;

17 4. Promote or normalize sexual or sadomasochistic abuse; and

18 5. In the case of performances or matter that make indecency,
19 pornography, obscenity, or harmful to minors content accessible to
20 children, infringe upon parental rights to control the upbringing and
21 education, mental, emotional, and physical health care, and moral and
22 religious development of their children.

23 Winning any award, prize, or other institutional recognition that considers
24 any factor, including but not limited to demographic characteristics of the
25 author, the author's historical significance, or the matter's social impact,
26 other than the purely literary, artistic, political, or scientific value of the
27 performance or matter in question, shall not factor into the assessment of

1 the matter for either adults or minors;

2 (m) "Sexual conduct" has the same meaning as in KRS 531.010 and shall
3 include:

4 1. Human genitals in a state of sexual stimulation or arousal;

5 2. Acts of human masturbation, sexual intercourse, or sodomy;

6 3. Fondling or other erotic touching of human genitals or pubic region;

7 or

8 4. Fondling or other erotic touching of human buttocks or the female
9 breast;

10 (n) "Sexual excitement" means a condition of human male or female genitals
11 when in a state of sexual stimulation or arousal, or the sensual experiences
12 of humans engaging in or witnessing sexual conduct or nudity;

13 (o) "Sexual intercourse" has the same meaning as in KRS 510.010 and
14 includes "deviate sexual intercourse" as defined in KRS 510.010; and

15 (p) "Stripping" means any act which involves the intentional removal or
16 simulated removal of clothing in a sexual manner, or intentional nudity, for
17 the entertainment of one (1) or more individuals.

18 (2) A parent with the fundamental rights identified in Sections 2, 3, 4, and 5 of this
19 Act also has the right and reasonable expectation that his or her child will not be
20 exposed to or be given access to any pervasively vulgar or obscene matter or
21 performance harmful to minors, or any obscene imagery representing minors.

22 (3) To safeguard the rights identified in subsection (2) of this section, each local
23 board of education or charter school board of directors shall take necessary
24 actions and adopt policies and procedures to:

25 (a) Take reasonable precautions to make inaccessible, on any property owned,
26 leased, or operated by the public school, to any minor any pervasively
27 vulgar or obscene matter harmful to minors, obscene imagery representing

1 minors, or any performance that is harmful for minors, pervasively vulgar,
2 or obscene; and

3 (b) Prohibit on the site of on any property owned, leased, or operated by the
4 public school, any performance that is harmful to minors, drag
5 performance, pervasively vulgar performance, obscene performance, or any
6 performance involving sexual conduct, nudity, or stripping.

7 (4) Willful violation of this section by an employee of a school shall be a basis for
8 disciplinary action.

9 (5) In addition to the actions authorized under subsection (4) of this section, willful
10 violation of this section may also be the basis for criminal prosecution under KRS
11 Chapter 531 or any other applicable statute.

12 (6) No obscene matter, obscene imagery representing minors, matter or performance
13 that is harmful to minors, obscene performance, drag performance, stripping, or
14 pervasively vulgar matter or performance shall be deemed to have educational
15 value for minors in the Commonwealth.

16 (7) This section shall not prohibit the use of approved instructional material used in
17 public schools, provided that parents of a child are given advance notice of matter
18 or materials that are potentially harmful to minors in the planned instruction,
19 and parents are given the opportunity to remove the child, without penalty, from
20 the instruction if the instructional material:

21 (a) Is permissible under state law;

22 (b) Is approved by standard school district or public charter school policies;
23 and

24 (c) Satisfies all administrative regulations for academic standards for the
25 course being taught.

26 ➔Section 7. KRS 158.148 is amended to read as follows:

27 (1) A parent that has the fundamental rights established under Sections 1 to 6 of this

1 Act also has a right and reasonable expectation that his or her child will not be
 2 bullied while at school, at school-sanctioned events, or on school-sponsored
 3 transportation. To safeguard this right, a school board shall establish policies and
 4 procedures in accordance with this section to ensure that if a child is involved in
 5 a bullying incident, the school will notify the parents of all circumstances
 6 involved and take actions to provide support for the victim and to prevent further
 7 bullying.

8 ~~(2)~~~~(1)~~ (a) As used in this section, "bullying" means any unwanted verbal, physical,
 9 or social behavior among students that involves a real or perceived power
 10 imbalance and is repeated or has the potential to be repeated:

- 11 1. That occurs on school premises, on school-sponsored transportation, or
- 12 at a school-sponsored event; or
- 13 2. That disrupts the education process.

14 (b) This definition shall not be interpreted to prohibit civil exchange of opinions
 15 or debate or cultural practices protected under the state or federal Constitution
 16 where the opinion expressed does not otherwise materially or substantially
 17 disrupt the education process.

18 ~~(3)~~~~(2)~~ In cooperation with the Kentucky Education Association, the Kentucky
 19 School Boards Association, the Kentucky Association of School Administrators,
 20 the Kentucky Association of Professional Educators, the Kentucky Association of
 21 School Superintendents, the Parent-Teachers Association, the Kentucky Chamber
 22 of Commerce, the Farm Bureau, members of the Interim Joint Committee on
 23 Education, and other interested groups, and in collaboration with the Center for
 24 School Safety, the Department of Education shall develop or update as needed and
 25 distribute to all districts by August 31 of each even-numbered year, beginning
 26 August 31, 2008:

27 (a) Statewide student discipline guidelines to ensure safe schools, including the

1 definition of serious incident for the reporting purposes as identified in KRS
2 158.444;

3 (b) Recommendations designed to improve the learning environment and school
4 climate, parental and community involvement in the schools, and student
5 achievement; and

6 (c) A model policy to implement the provisions of this section and KRS 158.156,
7 158.444, 525.070, and 525.080.

8 ~~(4)~~~~(3)~~ The department shall obtain statewide data on major discipline problems and
9 reasons why students drop out of school. In addition, the department, in
10 collaboration with the Center for School Safety, shall identify successful strategies
11 currently being used in programs in Kentucky and in other states and shall
12 incorporate those strategies into the statewide guidelines and the recommendations
13 under subsection ~~(3)~~~~(2)~~ of this section.

14 ~~(5)~~~~(4)~~ Copies of the discipline guidelines shall be distributed to all school districts.
15 The statewide guidelines shall contain broad principles and legal requirements to
16 guide local districts in developing their own discipline code and school councils in
17 the selection of discipline and classroom management techniques under KRS
18 158.154; and in the development of the district-wide safety plan.

19 ~~(6)~~~~(5)~~ (a) Each local board of education shall be responsible for formulating a
20 code of acceptable behavior and discipline to apply to the students in each
21 school operated by the board. The code shall be updated no less frequently
22 than every two (2) years, with the first update being completed by November
23 30, 2008.

24 (b) The superintendent, or designee, shall be responsible for overall
25 implementation and supervision, and each school principal shall be
26 responsible for administration and implementation within each school. Each
27 school council shall select and implement the appropriate discipline and

1 classroom management techniques necessary to carry out the code. The board
2 shall establish a process for a two-way communication system for teachers
3 and other employees to notify a principal, supervisor, or other administrator of
4 an existing emergency.

5 (c) The code shall prohibit bullying.

6 (d) The code shall contain the type of behavior expected from each student, the
7 consequences of failure to obey the standards, and the importance of the
8 standards to the maintenance of a safe learning environment where orderly
9 learning is possible and encouraged.

10 (e) The code shall contain:

11 1. Procedures for identifying, documenting, and reporting incidents of
12 bullying, incidents of violations of the code, and incidents for which
13 reporting is required under KRS 158.156, **including but not limited to**
14 **the appropriate order of reporting to staff and escalation to staff if the**
15 **incidents persist;**

16 2. Procedures for investigating and responding to a complaint or a report of
17 bullying or a violation of the code, or of an incident for which reporting
18 is required under KRS 158.156, **including but not limited to specific**
19 **time requirements for beginning and completing an investigation;**

20 **3. Procedures for the appeal and review of each incident, including but**
21 **not limited to specific time requirements;**

22 **4. Procedures for**~~including~~ reporting incidents to the parents, legal
23 guardians, or other persons exercising custodial control or supervision of
24 the students involved, **including the actions to be taken to prevent any**
25 **possible future acts of bullying or retaliation;**

26 **5. Procedures for providing support for the victim and assessing the need**
27 **for protection of the victim;**

1 ~~6.[3.]~~ A strategy or method of protecting from retaliation a complainant or
2 person reporting an incident of bullying, a violation of the code, or an
3 incident for which reporting is required under KRS 158.156;

4 ~~7.[4.]~~ A process for informing students, parents, legal guardians, or other
5 persons exercising custodial control or supervision, and school
6 employees of the requirements of the code and the provisions of this
7 section and KRS 158.156, 158.444, 525.070, and 525.080, including
8 training for school employees; and

9 ~~8.[5.]~~ Information regarding the consequences of bullying and violating the
10 code and violations reportable under KRS 158.154, 158.156, or 158.444.

11 (f) The principal of each school shall apply the code of behavior and discipline
12 uniformly and fairly to each student at the school without partiality or
13 discrimination.

14 (g) A copy of the code of behavior and discipline adopted by the board of
15 education shall be posted at each school. Guidance counselors shall be
16 provided copies for discussion with students. The code shall be referenced in
17 all school handbooks. All school employees and parents, legal guardians, or
18 other persons exercising custodial control or supervision shall be provided
19 copies of the code.

20 ➔Section 8. Sections 1 to 6 and 7 of this Act shall be known as the Childhood
21 Protection in Education Act.