

1 AN ACT relating to students.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 159 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) A parent, guardian, or other person with custody of a child subject to compulsory*
6 *attendance under this chapter may partially satisfy the compulsory attendance*
7 *requirements by enrolling the child as a student in a public school district on a*
8 *part-time basis for courses offered in the district's schools. If the child:*

9 *(a) Is a resident of the district, the district shall assign the child to a school and*
10 *enroll the child in the requested courses subject to the same policies and*
11 *procedures used in assigning and enrolling other resident students; or*

12 *(b) Is not a resident of the district, the child shall be subject to the district's*
13 *nonresident pupil policy required in Section 2 of this Act in the same*
14 *manner as other nonresident pupils.*

15 *(2) If a part-time student enrolled under subsection (1) of this section wishes to*
16 *enroll into a specific educational program offered to other students by a school,*
17 *then the part-time student shall be subject to the same eligibility requirements,*
18 *responsibilities, or standards as other students.*

19 *(3) Any part-time student enrolled in a school under subsection (1) of this section*
20 *may participate in the school's activities and extracurriculars in the same manner*
21 *and subject to the same rules, policies, or standards as full-time students.*

22 *(4) A part-time student enrolled under this section shall not be concurrently enrolled*
23 *in more than one (1) public school.*

24 *(5) The Kentucky Board of Education shall promulgate administrative regulations in*
25 *accordance with KRS Chapter 13A as necessary to carry out this section.*

26 ➔Section 2. KRS 158.120 is amended to read as follows:

27 (1) ~~[By July 1, 2022, a]~~Each board of education shall adopt a nonresident pupil policy

1 to govern the terms under which the district shall allow enrollment of nonresident
2 pupils. ~~{Upon allowing nonresident pupil enrollment, }~~The policy shall allow
3 nonresident children to be eligible to enroll in any public school located within the
4 district. The policy shall not discriminate **against any pupil on the basis of the**
5 **pupil's residential address, abilities such as athletic abilities, socioeconomic**
6 **status, or status in a protected class under state and federal law**~~{between~~
7 ~~nonresident pupils, but may recognize enrollment capacity, as determined by the~~
8 ~~local school district}~~. The nonresident pupil policy and any subsequent changes
9 adopted by a board of education shall be filed with the Kentucky Department of
10 Education no later than thirty (30) days following their adoption **and posted on the**
11 **district's website.**

12 (2) ~~A~~~~{Any}~~ board of education may charge a reasonable tuition fee per month for each
13 child attending its schools whose parent, guardian, or other legal custodian is not a
14 bona fide resident of the district. Any controversy as to the fee shall be submitted to
15 the Kentucky Board of Education for final settlement. The fee shall be paid by the
16 board of education of the school district in which the pupil resides~~, except in cases~~
17 ~~where the board makes provision for the child's education within his or her district.~~
18 ~~If a board of education is required to pay a pupil's tuition fee, the pupil shall be~~
19 ~~admitted to a school only upon proper certificate of the board of education of the~~
20 ~~district in which he or she resides}.~~

21 (3) When it appears to the board of education of any school district that it is convenient
22 for a pupil of any grade residing in that district to attend an approved public school
23 in another district, the board of education may enter into a tuition contract with the
24 public school authorities of the other school district for that purpose, but before a
25 contract is entered into with public school authorities in another state the school
26 shall have been approved by the state school authorities of that state through the
27 grades in which the pupil belongs. When a district undertakes, under operation of a

1 tuition contract or of law, to provide in its school for pupils residing in another
2 district, the district of their residence shall share the total cost of the school,
3 including transportation when furnished at public expense, in proportion to the
4 number of pupils or in accordance with contract agreement between the two (2)
5 boards.

6 **(4) Each board of education shall annually establish the enrollment capacity of each**
7 **grade level at each school. The capacities, current enrollments, and available**
8 **vacancies shall be posted on the district's website. The capacity shall be based on**
9 **the maximum class sizes established in KRS 157.360.**

10 **(5) A board of education's nonresident pupil policy shall allow for nonresident**
11 **enrollment throughout the year as available vacancies allow. The board may**
12 **designate a district employee or establish a committee to review nonresident**
13 **enrollment applications and carry out this subsection. The enrollment shall**
14 **comply with the following:**

15 **(a) A parent or guardian who wishes to enroll their child pursuant to a**
16 **nonresident pupil policy shall submit an enrollment application to the**
17 **school district on a form designated by the Kentucky Board of Education.**
18 **The application shall indicate the child's grade level and which of the**
19 **district's schools is desired;**

20 **(b) Within ten (10) days of submission, the board of education shall review and**
21 **act upon the application. The board shall approve the application if there is**
22 **capacity at the requested school at the child's grade level, consistent with**
23 **the nonresident pupil policy adopted by the board pursuant to this section;**

24 **(c) Any action taken by a designated district employee or committee reviewing**
25 **nonresident enrollment applications may be appealed to the board at the**
26 **board's next regular meeting; and**

27 **(d) Within five (5) days of the board's action on the application, the board shall**

1 notify the parent or guardian of the action. If the board denies the
2 application, the parent or guardian may appeal the local board's decision to
3 the Kentucky Board of Education within ten (10) days of the receipt of the
4 notice using a form designated by the state board. The appeal shall be
5 placed on the state board's agenda at the next regularly scheduled meeting.
6 After hearing from both the parent or guardian and the local board, the
7 state board shall determine whether the local board's decision will be
8 upheld, modified, or overturned.

9 (6) By July 1 of each year, each school district shall report to the Kentucky
10 Department of Education the number of nonresident pupils enrolled during the
11 previous year, the number of nonresident pupils who withdrew from the district,
12 the number of nonresident pupils who submitted an enrollment application, the
13 number of those applications that were denied, and the reasons for each denial.
14 The department shall publish this information on its website.

15 (7) The Kentucky Board of Education shall promulgate administrative regulations in
16 accordance with KRS Chapter 13A to establish the appeals processes and forms
17 required under this section.

18 ➔Section 3. KRS 157.350 is amended to read as follows:

19 Each district which meets the following requirements shall be eligible to share in the
20 distribution of funds from the fund to support education excellence in Kentucky:

21 (1) Employs and compensates all teachers for not less than one hundred eighty-five
22 (185) days. The Kentucky Board of Education, upon recommendation of the
23 commissioner of education, shall prescribe procedures by which this requirement
24 may be reduced during any year for any district which employs teachers for less
25 than one hundred and eighty-five (185) days, in which case the eligibility of a
26 district for participation in the public school fund shall be in proportion to the
27 length of time teachers actually are employed;

- 1 (2) Operates all schools for a minimum school term as provided in KRS 158.070 and
2 administrative regulations of the Kentucky Board of Education. If the school term is
3 less than one hundred eighty-five (185) days, including not less than one hundred
4 seventy (170) student attendance days as defined in KRS 158.070 or one thousand
5 sixty-two (1,062) hours of instructional time, for any reason not approved by the
6 Kentucky Board of Education on recommendation of the commissioner, the
7 eligibility of a district for participation in the public school fund shall be in
8 proportion to the length of term the schools actually operate;
- 9 (3) Compensates all teachers on the basis of a single salary schedule and in conformity
10 with the provisions of KRS 157.310 to 157.440;
- 11 (4) Includes no nonresident pupils in its average daily attendance, except:
- 12 (a) ~~[1. Until July 1, 2022, pupils listed under a written agreement, which may~~
13 ~~be for multiple years, with the district of the pupils' legal residence.~~
14 ~~2. If an agreement cannot be reached, either board may appeal to the~~
15 ~~commissioner for settlement of the dispute.~~
16 ~~3. The commissioner shall have thirty (30) days to resolve the dispute.~~
17 ~~Either board may appeal the commissioner's decision to the Kentucky~~
18 ~~Board of Education.~~
19 ~~4. The commissioner and the Kentucky Board of Education shall consider~~
20 ~~the factors affecting the districts, including but not limited to academic~~
21 ~~performance and the impact on programs, school facilities,~~
22 ~~transportation, and staffing of the districts.~~
23 ~~5. The Kentucky Board of Education shall have sixty (60) days to approve~~
24 ~~or amend the decision of the commissioner;~~
- 25 (b) ~~Beginning July 1, 2022,]~~Those nonresident pupils admitted pursuant to
26 district nonresident pupil policies adopted under ***Section 2 of this Act***~~[KRS~~
27 ~~158.120]~~; and

1 ~~(b)(e)}~~ A nonresident pupil who attends a district in which a parent of the pupil
 2 is employed. ~~[All tuition fees required of a nonresident pupil may be waived~~
 3 ~~for a pupil who meets the requirements of this paragraph.]~~

4 This subsection does not apply to those pupils enrolled in an approved class
 5 conducted in a hospital and pupils who have been expelled for behavioral reasons
 6 who shall be counted in average daily attendance under KRS 157.320;

7 (5) Any secondary school which maintains a basketball team for boys for other than
 8 intramural purposes, shall maintain the same program for girls; ***and***

9 (6) Any school district which fails to comply with subsection (5) of this section shall be
 10 prohibited from participating in varsity competition in any sport for one (1) year.
 11 Determination of failure to comply shall be made by the Department of Education
 12 after a hearing requested by any person within the school district. The hearing shall
 13 be conducted in accordance with KRS Chapter 13B. A district under this subsection
 14 shall, at the hearing, have an opportunity to show inability to comply.

15 ➔Section 4. KRS 156.070 is amended to read as follows:

16 (1) The Kentucky Board of Education shall have the management and control of the
 17 common schools and all programs operated in these schools, including
 18 interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for
 19 the Blind, and community education programs and services.

20 (2) The Kentucky Board of Education may designate an organization or agency to
 21 manage interscholastic athletics in the common schools, provided that the rules,
 22 regulations, and bylaws of any organization or agency so designated shall be
 23 approved by the board, and provided further that any administrative hearing
 24 conducted by the designated managing organization or agency shall be conducted in
 25 accordance with KRS Chapter 13B.

26 (a) The state board or its designated agency shall assure through promulgation of
 27 administrative regulations that if a secondary school sponsors or intends to

1 sponsor an athletic activity or sport that is similar to a sport for which
2 National Collegiate Athletic Association members offer an athletic
3 scholarship, the school shall sponsor the athletic activity or sport for which a
4 scholarship is offered. The administrative regulations shall specify which
5 athletic activities are similar to sports for which National Collegiate Athletic
6 Association members offer scholarships.

7 (b) Beginning with the 2003-2004 school year, the state board shall require any
8 agency or organization designated by the state board to manage interscholastic
9 athletics to adopt bylaws that establish as members of the agency's or
10 organization's board of control one (1) representative of nonpublic member
11 schools who is elected by the nonpublic school members of the agency or
12 organization from regions one (1) through eight (8) and one (1) representative
13 of nonpublic member schools who is elected by the nonpublic member
14 schools of the agency or organization from regions nine (9) through sixteen
15 (16). The nonpublic school representatives on the board of control shall not be
16 from classification A1 or D1 schools. Following initial election of these
17 nonpublic school representatives to the agency's or organization's board of
18 control, terms of the nonpublic school representatives shall be staggered so
19 that only one (1) nonpublic school member is elected in each even-numbered
20 year.

21 (c) The state board or any agency designated by the state board to manage
22 interscholastic athletics shall not promulgate rules, administrative regulations,
23 or by laws that prohibit pupils in grades seven (7) to eight (8) from
24 participating in any high school sports except for high school varsity soccer
25 and football, or from participating on more than one (1) school-sponsored
26 team at the same time in the same sport. The Kentucky Board of Education, or
27 an agency designated by the board to manage interscholastic athletics, may

1 promulgate administrative regulations restricting, limiting, or prohibiting
2 participation in high school varsity soccer and football for students who have
3 not successfully completed the eighth grade.

- 4 (d) 1. The state board or any agency designated by the state board to manage
5 interscholastic athletics shall allow a member school's team or students
6 to play against students of a nonmember at-home private school, or a
7 team of students from nonmember at-home private schools, if the
8 nonmember at-home private schools and students comply with this
9 subsection.
- 10 2. A nonmember at-home private school's team and students shall comply
11 with the rules for student-athletes, including rules concerning:
- 12 a. Age;
 - 13 b. School semesters;
 - 14 c. Scholarships;
 - 15 d. Physical exams;
 - 16 e. Foreign student eligibility; and
 - 17 f. Amateurs.
- 18 3. A coach of a nonmember at-home private school's team shall comply
19 with the rules concerning certification of member school coaches as
20 required by the state board or any agency designated by the state board
21 to manage interscholastic athletics.
- 22 4. This subsection shall not allow a nonmember at-home private school's
23 team to participate in a sanctioned:
- 24 a. Conference;
 - 25 b. Conference tournament;
 - 26 c. District tournament;
 - 27 d. Regional tournament; or

- 1 e. State tournament or event.
- 2 5. This subsection does not allow eligibility for a recognition, award, or
3 championship sponsored by the state board or any agency designated by
4 the state board to manage interscholastic athletics.
- 5 6. A nonmember at-home private school's team or students may participate
6 in interscholastic athletics permitted, offered, or sponsored by the state
7 board or any agency designated by the state board to manage
8 interscholastic athletics.
- 9 (e) Every local board of education shall require an annual medical examination
10 performed and signed by a physician, physician assistant, advanced practice
11 registered nurse, or chiropractor, if performed within the professional's scope
12 of practice, for each student seeking eligibility to participate in any school
13 athletic activity or sport. The Kentucky Board of Education or any
14 organization or agency designated by the state board to manage interscholastic
15 athletics shall not promulgate administrative regulations or adopt any policies
16 or bylaws that are contrary to the provisions of this paragraph.
- 17 (f) Any student who turns nineteen (19) years of age prior to August 1 shall not
18 be eligible for high school athletics in Kentucky. Any student who turns
19 nineteen (19) years of age on or after August 1 shall remain eligible for that
20 school year only. An exception to the provisions of this paragraph shall be
21 made, and the student shall be eligible for high school athletics in Kentucky if
22 the student:
- 23 1. Qualified for exceptional children services and had an individual
24 education program developed by an admissions and release committee
25 (ARC) while the student was enrolled in the primary school program;
- 26 2. Was retained in the primary school program because of an ARC
27 committee recommendation; and

- 1 3. Has not completed four (4) consecutive years or eight (8) consecutive
2 semesters of eligibility following initial promotion from grade eight (8)
3 to grade nine (9).
- 4 (g) The state board or any agency designated by the state board to manage
5 interscholastic athletics shall promulgate administrative regulations or bylaws
6 that provide that:
- 7 1. A member school shall designate all athletic teams, activities, and sports
8 for students in grades six (6) through twelve (12) as one (1) of the
9 following categories:
- 10 a. "Boys";
11 b. "Coed"; or
12 c. "Girls";
- 13 2. The sex of a student for the purpose of determining eligibility to
14 participate in an athletic activity or sport shall be determined by:
- 15 a. A student's biological sex as indicated on the student's original,
16 unedited birth certificate issued at the time of birth; or
17 b. An affidavit signed and sworn to by the physician, physician
18 assistant, advanced practice registered nurse, or chiropractor that
19 conducted the annual medical examination required by paragraph
20 (e) of this subsection under penalty of perjury establishing the
21 student's biological sex at the time of birth;
- 22 3. a. An athletic activity or sport designated as "girls" for students in
23 grades six (6) through twelve (12) shall not be open to members of
24 the male sex.
- 25 b. Nothing in this section shall be construed to restrict the eligibility
26 of any student to participate in an athletic activity or sport
27 designated as "boys" or "coed"; and

- 1 4. Neither the state board, any agency designated by the state board to
2 manage interscholastic athletics, any school district, nor any member
3 school shall entertain a complaint, open an investigation, or take any
4 other adverse action against a school for maintaining separate
5 interscholastic or intramural athletic teams, activities, or sports for
6 students of the female sex.
- 7 (h) 1. The state board or any agency designated by the state board to manage
8 interscholastic athletics shall promulgate administrative regulations that
9 permit a school district to employ or assign nonteaching or noncertified
10 personnel or personnel without postsecondary education credit hours to
11 serve in a coaching position. The administrative regulations shall give
12 preference to the hiring or assignment of certified personnel in coaching
13 positions.
- 14 2. A person employed in a coaching position shall be a high school
15 graduate and at least twenty-one (21) years of age and shall submit to a
16 criminal background check in accordance with KRS 160.380.
- 17 3. The administrative regulations shall specify post-hire requirements for
18 persons employed in coaching positions.
- 19 4. The regulations shall permit a predetermined number of hours of
20 professional development training approved by the state board or its
21 designated agency to be used in lieu of postsecondary education credit
22 hour requirements.
- 23 5. A local school board may specify post-hire requirements for personnel
24 employed in coaching positions in addition to those specified in
25 subparagraph 3. of this paragraph.
- 26 (i) Unless permitted to be eligible for varsity athletics by any transfer rule
27 *included in an*~~[, policy, or]~~ administrative regulation promulgated by the state

1 board or any agency designated by the state board to manage interscholastic
2 athletics, any student who transfers enrollment from a district of residence to a
3 nonresident district under Section 2 of this Act~~[KRS 157.350(4)(b)]~~ after
4 enrolling in grade nine (9) and participating in a varsity sport shall be
5 ineligible to participate in interscholastic athletics in that varsity sport for a
6 period of one (1) calendar year from the date of the last participation in that
7 sport~~[the transfer]~~. The state board or any agency designated by the state
8 board to manage interscholastic athletics may adopt rules, policies, and
9 bylaws and promulgate administrative regulations necessary to carry out this
10 paragraph.

11 (j) No member school shall grant a student-athlete the right to use the member
12 school's intellectual property, such as trademarks, school uniforms, and
13 copyrights, in the student's earning of compensation through name, image,
14 and likeness activities. No student-athlete shall use such intellectual property
15 in earning compensation through name, image, and likeness activities. The
16 state board or any agency designated by the state board to manage
17 interscholastic athletics shall promulgate administrative regulations to govern
18 and enforce this paragraph.

19 (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State
20 Property and Buildings Commission or others, whether public or private, any
21 lands, buildings, structures, installations, and facilities suitable for use in
22 establishing and furthering television and related facilities as an aid or
23 supplement to classroom instruction throughout the Commonwealth and for
24 incidental use in any other proper public functions. The lease may be for any
25 initial term commencing with the date of the lease and ending with the next
26 ensuing June 30, which is the close of the then-current fiscal biennium of the
27 Commonwealth, with exclusive options in favor of the board to renew the

1 same for successive ensuing bienniums, July 1 in each even year to June 30 in
2 the next ensuing even year; and the rentals may be fixed at the sums in each
3 biennium, if renewed, sufficient to enable the State Property and Buildings
4 Commission to pay therefrom the maturing principal of and interest on, and
5 provide reserves for, any revenue bonds which the State Property and
6 Buildings Commission may determine to be necessary and sufficient, in
7 agreement with the board, to provide the cost of acquiring the television and
8 related facilities with appurtenances and costs as may be incident to the
9 issuance of the bonds.

10 (b) Each option of the Kentucky Board of Education to renew the lease for a
11 succeeding biennial term may be exercised at any time after the adjournment
12 of the session of the General Assembly at which appropriations shall have
13 been made for the operation of the state government for such succeeding
14 biennial term, by notifying the State Property and Buildings Commission in
15 writing, signed by the chief state school officer, and delivered to the secretary
16 of the Finance and Administration Cabinet as a member of the commission.
17 The option shall be deemed automatically exercised, and the lease
18 automatically renewed for the succeeding biennium, effective on the first day
19 thereof, unless a written notice of the board's election not to renew shall have
20 been delivered in the office of the secretary of the Finance and Administration
21 Cabinet before the close of business on the last working day in April
22 immediately preceding the beginning of the succeeding biennium.

23 (c) The Kentucky Board of Education shall not itself operate leased television
24 facilities, or undertake the preparation of the educational presentations or
25 films to be transmitted thereby, but may enter into one (1) or more contracts
26 to provide therefor, with any public agency and instrumentality of the
27 Commonwealth having, or able to provide, a staff with proper technical

1 qualifications, upon which agency and instrumentality the board, through the
2 chief state school officer and the Department of Education, is represented in
3 such manner as to coordinate matters of curriculum with the curricula
4 prescribed for the public schools of the Commonwealth. Any contract for the
5 operation of the leased television or related facilities may permit limited and
6 special uses of the television or related facilities for other programs in the
7 public interest, subject to the reasonable terms and conditions as the board and
8 the operating agency and instrumentality may agree upon; but any contract
9 shall affirmatively forbid the use of the television or related facilities, at any
10 time or in any manner, in the dissemination of political propaganda or in
11 furtherance of the interest of any political party or candidate for public office,
12 or for commercial advertising. No lease between the board and the State
13 Property and Buildings Commission shall bind the board to pay rentals for
14 more than one (1) fiscal biennium at a time, subject to the aforesaid renewal
15 options. The board may receive and may apply to rental payments under any
16 lease and to the cost of providing for the operation of the television or related
17 facilities not only appropriations which may be made to it from state funds,
18 from time to time, but also contributions, gifts, matching funds, devises, and
19 bequests from any source, whether federal or state, and whether public or
20 private, so long as the same are not conditioned upon any improper use of the
21 television or related facilities in a manner inconsistent with the provisions of
22 this subsection.

23 (4) The state board may, on the recommendation and with the advice of the chief state
24 school officer, prescribe, print, publish, and distribute at public expense such
25 administrative regulations, courses of study, curriculums, bulletins, programs,
26 outlines, reports, and placards as each deems necessary for the efficient
27 management, control, and operation of the schools and programs under its

1 jurisdiction. All administrative regulations published or distributed by the board
2 shall be enclosed in a booklet or binder on which the words "informational copy"
3 shall be clearly stamped or printed.

4 (5) Upon the recommendation of the chief state school officer or his or her designee,
5 the state board shall establish policy or act on all matters relating to programs,
6 services, publications, capital construction and facility renovation, equipment,
7 litigation, contracts, budgets, and all other matters which are the administrative
8 responsibility of the Department of Education.