

1 AN ACT relating to education and declaring an emergency.

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

3 ➔Section 1. KRS 158.191 is amended to read as follows:

4 (1) As used in this section:

5 (a) "External health care provider" means a provider of health or mental health
6 services that is not employed by or contracted with the school district to
7 provide services to the district's students;

8 (b) "Health services" has the same meaning as in KRS 156.502;

9 (c) "Mental health services" means services provided by a school-based mental
10 health services provider as defined in KRS 158.4416 but shall not include
11 academic or career counseling; and

12 (d) "Parent" means a person who has legal custody or control of the student such
13 as a mother, father, or guardian.

14 (2) Upon a student's enrollment and at the beginning of each school year, the district
15 shall provide a notification to the student's parents listing each of the health services
16 and mental health services related to human sexuality, contraception, or family
17 planning available at the student's school and of the parents' right to withhold
18 consent or decline any of those specific services. A parent's consent to a health
19 service or mental health service under this subsection shall not waive the parent's
20 right to access the student's educational or health records held by the district or the
21 notifications required under subsection (3) of this section.

22 (3) Except as provided in subsection (5) of this section, as part of a school district's
23 effort to provide a safe and supportive learning environment for students ***and to***
24 ***facilitate and support parental rights and involvement in the student's life,*** a
25 school shall notify a student's parents ***within two (2) business days of the following***
26 ***occurring***~~[if]:~~

27 (a) The school changes the health services or mental health services related to

1 human sexuality, contraception, or family planning that it provides, and shall
 2 obtain parental consent prior to providing health services or mental health
 3 services to the student;~~[-or]~~

4 (b) **School personnel become aware of any of the following:**

5 **1. The student experiences any significant physical injury while under**
 6 **the supervision of a school employee;**

7 **2. The student experiences repeated instances of bullying or harassment**
 8 **or is identified as the victim in a violation of the local code of**
 9 **acceptable behavior and discipline;**

10 **3. The student experiences a significant or ongoing reduction in**
 11 **academic performance;**

12 **4. The student requests or receives health services or mental health**
 13 **services related to sexual conduct or behavior, sexual orientation, or**
 14 **sexual identity;**

15 **5. The student asserts that the student's gender is different from his or**
 16 **her biological sex; or**

17 **6. A school employee is engaged in a romantic or sexual relationship**
 18 **with the student or is engaging in repeated personal communications**
 19 **with the student that violate the professional code of ethics developed**
 20 **pursuant to KRS 161.028; or**

21 (c) School personnel make a referral:

22 1. For the student to receive a school's health services or mental health
 23 services; or

24 2. To an external health care provider, for which parental consent shall be
 25 obtained prior to the referral being made.

26 (4) School districts and district personnel shall respect the **fundamental** rights of
 27 parents to make decisions regarding the upbringing and control of the student, **and**

1 shall adopt~~[through]~~ procedures encouraging students to discuss mental or physical
 2 health or life issues with their parents and~~[or through]~~ facilitating the discussion
 3 with their parents.

4 (5) (a) The Kentucky Board of Education or the Kentucky Department of Education
 5 shall not require or recommend that a local school district keep any student
 6 information confidential from a student's parents. A district or school shall
 7 not:

8 1. Adopt policies or procedures that keep~~[with the intent of keeping]~~ any
 9 student information confidential from parents; or

10 2. *Refuse to disclose any student information requested by the student's*
 11 *parent;*

12 *except as provided in paragraph (d) of this subsection.*

13 (b) The Kentucky Board of Education or the Kentucky Department of Education
 14 shall not require or recommend policies or procedures for the use of pronouns
 15 that do not conform to a student's biological sex as indicated on the student's
 16 original, unedited birth certificate issued at the time of birth pursuant to KRS
 17 156.070(2)(g)2.

18 (c) A local school district shall not require school personnel or students to use
 19 pronouns for any individual~~[students]~~ that do not conform to that particular
 20 individual's~~[student's]~~ biological sex as referenced in paragraph (b) of this
 21 subsection.

22 (d) Nothing in this subsection shall prohibit a school district or district personnel
 23 from withholding information from a parent if a reasonably prudent person
 24 would believe, based on previous conduct and history, that the disclosure
 25 would result in the child becoming a dependent child or an abused or
 26 neglected child as defined in KRS 600.020. The fact that district personnel
 27 withhold information from a parent under this subsection shall not in itself

1 constitute evidence of failure to report dependency, neglect, or abuse to the
2 Cabinet for Health and Family Services under KRS 620.030.

3 (6) Prior to a well-being questionnaire or assessment, or a health screening form being
4 given to a child for research purposes, a school district shall provide the student's
5 parent with access to review the material and shall obtain parental consent. Parental
6 consent shall not be a general consent to these assessments or forms but shall be
7 required for each assessment or form. A parent's refusal to consent shall not be an
8 indicator of having a belief regarding the topic of the assessment or form.

9 (7) Nothing in this section shall:

10 (a) Prohibit a school district or the district's personnel from seeking or providing
11 emergency medical ~~for mental health~~ services for a student **or emergency**
12 **mental health services necessary to prevent the death of or imminent**
13 **physical harm to the student or any other person** as outlined in the district's
14 policies. **This shall include mental health services provided generally to the**
15 **entire student population to assist grieving students or to respond to a**
16 **disaster**; or

17 (b) Remove the duty to report pursuant to KRS 620.030 if district personnel has
18 reasonable cause to believe the child is a dependent child or an abused or
19 neglected child due to the risk of physical or emotional injury identified in
20 KRS 600.020(1)(a)2. or as otherwise provided in that statute.

21 ➔Section 2. KRS 158.1415 is amended to read as follows:

22 (1) If a school council or, if none exists, the principal adopts a curriculum for human
23 sexuality or sexually transmitted diseases, instruction shall include but not be
24 limited to the following content:

25 (a) Abstinence from sexual activity is the desirable goal for all school-age
26 children;

27 (b) Abstinence from sexual activity is the only certain way to avoid unintended

1 pregnancy, sexually transmitted diseases, and other associated health
2 problems;

3 (c) The best way to avoid sexually transmitted diseases and other associated
4 health problems is to establish a permanent mutually faithful monogamous
5 relationship;

6 (d) A policy to respect parental rights~~[-by ensuring]~~ that ***prohibits***:

7 1. Children in grade five (5) and below ***from receiving***~~[-do not receive]~~ any
8 instruction through curriculum or programs on human sexuality or
9 sexually transmitted diseases;~~[-or]~~

10 2. Any child, regardless of grade level, enrolled in the district ***from***
11 ***receiving***~~[-does not receive]~~ any instruction or presentation that has a
12 goal or purpose of students studying or exploring gender identity,
13 gender expression, or sexual orientation; and

14 ***3. Any child, regardless of grade level, enrolled in the district from***
15 ***receiving any instruction or presentation on any specific topic where***
16 ***the child's parent has provided written notice to the school asserting***
17 ***that the specific topic conflicts with the family's religious or moral***
18 ***beliefs; and***

19 (e) A policy to notify a parent in advance and obtain the parent's written consent
20 before the parent's child in grade six (6) or above receives any instruction
21 through curriculum or programs on human sexuality or sexually transmitted
22 diseases authorized in this section.

23 (2) Any course, curriculum, or program offered by a public school on the subject of
24 human sexuality provided by school personnel or by third parties authorized by the
25 school shall:

26 (a) Provide an alternative course, curriculum, or program without any penalty to
27 the student's grade or standing for students whose parents have not provided

- 1 written consent as required in subsection (1)(e) of this section;
- 2 (b) Be subject to an inspection by parents of participating students that allows
3 parents to review the following materials:
- 4 1. Curriculum;
 - 5 2. Instructional materials;
 - 6 3. Lesson plans;
 - 7 4. Assessments or tests;
 - 8 5. Surveys or questionnaires;
 - 9 6. Assignments; and
 - 10 7. Instructional activities;
- 11 (c) Be developmentally appropriate; and
- 12 (d) Be limited to a curriculum that has been subject to the reasonable review and
13 response by stakeholders in conformity with this subsection and KRS
14 160.345(2).
- 15 (3) A public school offering any course, curriculum, or program on the subject of
16 human sexuality shall provide written notification to the parents of a student at least
17 two (2) weeks prior to the student's planned participation in the course, curriculum,
18 or program. The written notification shall:
- 19 (a) Inform the parents of the provisions of subsection (2) of this section;
 - 20 (b) Provide the date the course, curriculum, or program is scheduled to begin;
 - 21 (c) Detail the process for a parent to review the materials outlined in subsection
22 (2) of this section;
 - 23 (d) Explain the process for a parent to provide written consent for the student's
24 participation in the course, curriculum, or program; and
 - 25 (e) Provide the contact information for the teacher or instructor of the course,
26 curriculum, or program and a school administrator designated with oversight.
- 27 (4) Nothing in this section shall prohibit school personnel from:

- 1 (a) Discussing human sexuality, including the sexuality of any historic person,
2 group, or public figure, where the discussion provides necessary context in
3 relation to a topic of instruction from a curriculum approved pursuant to KRS
4 160.345; or
- 5 (b) Responding to a question from a student during class regarding human
6 sexuality as it relates to a topic of instruction from a curriculum approved
7 pursuant to KRS 160.345.

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

10 (1) (a) A parent may bring suit for any violation of Section 1 or 2 of this Act and
11 may raise those sections as a defense in any judicial or administrative
12 proceeding without regard to whether the proceeding is brought by or in the
13 name of the state government, any private person, or any other party.

14 (b) A parent who successfully asserts a claim or defense under Section 1 or 2 of
15 this Act may recover declaratory relief, injunctive relief, compensatory
16 damages, reasonable attorneys' fees and costs, and any other appropriate
17 relief.

18 (c) A district or school shall indemnify its employees for any liability incurred
19 by the employee and for any judgment entered against the employee for
20 claims arising under Section 1 or 2 of this Act unless the employee was
21 convicted of a criminal violation for the conduct from which the claim
22 arises.

23 (2) A district or school employee who is found to have knowingly and intentionally
24 violated Section 1 or 2 of this Act shall be disciplined by the appropriate state
25 licensing board and shall have any state-issued license or certification suspended
26 for a period of two (2) years.

27 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO

1 READ AS FOLLOWS:

2 **A teacher or other employee of a district shall not be subject to any disciplinary action**
 3 **or adverse employment action for any of the following:**

4 **(1) Informing a student's parent of any information regarding that student that the**
 5 **individual reasonably believes the parent should know; or**

6 **(2) Declining to address an individual using a pronoun or title that is inconsistent**
 7 **with the individual's biological sex.**

8 ➔Section 5. KRS 158.193 is amended to read as follows:

9 (1) For the purposes of this section, "on duty" means those times when a school district
 10 employee is:

11 (a) Required by the district to be on campus or at another designated location and
 12 required to perform the scope of the employee's duties; or

13 (b) Otherwise acting as a designated representative of the school district.

14 (2) A school district shall not punish or prohibit an employee from, or punish an
 15 employee for, engaging in private religious expression otherwise protected by the
 16 First Amendment to the United States Constitution absent a showing that the
 17 employee has engaged in actual coercion.

18 (3) While a school district employee is on duty, the employee may, at a minimum:

19 (a) Engage in religious expression and discussions and share religious materials
 20 with other employees at the same time and in the same manner that employees
 21 are permitted to engage in nonreligious expression and discussions outside the
 22 scope of duties;

23 (b) Engage in private religious expression at a time when it is otherwise
 24 permissible for an employee to engage in private expressive conduct or act
 25 outside the scope of duties;

26 (c) Meet with other district employees for prayer or religious study during times
 27 that the employee is allowed to act outside the scope of duties, including but

- 1 not limited to employee breaks, time before school, and during lunch;
- 2 (d) Work as a sponsor of a student religious club or organization and assist
- 3 students in planning meetings, activities, and events to the same extent that
- 4 employee sponsors of nonreligious clubs or organizations are permitted to do
- 5 so;
- 6 (e) Wear religious clothing, symbols, or jewelry, provided that such items
- 7 otherwise comply with any dress code implemented by the school district;
- 8 (f) Decorate their desk and other personal spaces with personal items that reflect
- 9 their religious beliefs to the same extent that other employees are permitted to
- 10 decorate their desk and other personal spaces with personal items;~~and~~
- 11 (g) During noninstructional time, engage in religious expression and share
- 12 religious materials to the same extent that other employees may engage in
- 13 private expression permitted under the First Amendment to the United States
- 14 Constitution; **and**
- 15 **(h) Participate in voluntary, student-initiated, student-led prayer, including but**
- 16 **not limited to before a sporting event, when invited to do so by the students.**
- 17 (4) Nothing in this section shall be construed to authorize the state or any other
- 18 governmental organization to:
- 19 (a) Require any person to participate in prayer or any other religious activity; or
- 20 (b) Violate the constitutional rights of any person.
- 21 (5) This section shall not be construed to limit a school district's authority to:
- 22 (a) Maintain order and discipline on school property in a content-neutral and
- 23 viewpoint-neutral manner;
- 24 (b) Protect the safety of students, employees, and visitors; and
- 25 (c) Adopt and enforce policies and procedures regarding student speech at school
- 26 that respect the rights of students.
- 27 ➔Section 6. Whereas situations currently exist in which the rights of families are

- 1 violated, an emergency is declared to exist, and this Act takes effect upon its passage and
- 2 approval by the Governor or upon its otherwise becoming a law.