

1 AN ACT relating to virtual education.

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

3 ➔Section 1. KRS 157.320 is amended to read as follows:

4 As used in KRS 157.310 to 157.440, unless the context otherwise requires:

- 5 (1) "Average daily attendance" means the aggregate days attended by pupils in a public
6 school, adjusted for weather-related low attendance days if applicable, divided by
7 the actual number of days the school is in session, after the five (5) days with the
8 lowest attendance have been deducted.
- 9 (a) Aggregate days shall include, in addition to the aggregate number of days
10 attended by a pupil who was suspended during a school year, the number of
11 days the pupil was suspended, not to exceed ten (10) days in total for the
12 school year; and
- 13 (b) Aggregate days shall include, in addition to the aggregate number of days
14 attended by a pupil who was expelled for behavioral problems, the number of
15 days the pupil was expelled up to a total of one hundred seventy-five (175)
16 days. This total may extend into the next school year and shall be counted in
17 the average daily attendance for the next year;
- 18 (2) "Base funding level" means a guaranteed amount of revenue per pupil to be
19 provided for each school district, to be used for regular operating and capital
20 expenditures;
- 21 (3) "Board" means the board of education of any county or independent school district;
- 22 (4) "District" means any school district as defined by law;
- 23 (5) "Elementary school" means a school consisting of the primary school program
24 through grade eight (8) as defined in KRS 158.030, or any appropriate combination
25 of grades within this range, as determined by the plan of organization for schools
26 authorized by the district board;
- 27 (6) "Support Education Excellence in Kentucky" means the level of educational

1 services and facilities which is to be provided in each district from the public school
2 fund;

3 (7) "Kindergarten full-time equivalent pupil in average daily attendance" means each
4 kindergarten pupil counted no more than one-half (1/2) day in the aggregate days
5 attended by kindergarten pupils in a public school divided by the actual number of
6 days school is in session after the five (5) days with the lowest attendance have
7 been deducted. Kindergarten is the entry level of the primary program and shall be
8 provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a
9 full school year for each kindergarten pupil;

10 (8) "Public school fund" means the fund created by KRS 157.330 for use in financing
11 education in public elementary and secondary schools;

12 (9) "Administrative regulations of the Kentucky Board of Education" means those
13 regulations which the Kentucky Board of Education may adopt upon the
14 recommendation and with the advice of the commissioner of education. The
15 commissioner of education shall recommend administrative regulations necessary
16 for carrying out the purposes of KRS 157.310 to 157.440;

17 (10) "Experience" means employment as a teacher, other than as a substitute or nursery
18 school teacher, for a minimum of one hundred forty (140) days during a school year
19 in a public or nonpublic elementary or secondary school or college or university
20 that is approved by the public accrediting authority in the state in which the
21 teaching duties were performed. A teacher who is employed by a board for at least
22 one hundred forty (140) days of a school year and who performs teaching duties for
23 the equivalent of at least seventy (70) full school days during that school year,
24 regardless of the schedule on which those duties were performed, shall be credited
25 with one (1) year of experience. A teacher who is employed by a board for at least
26 one hundred forty (140) days during each of two (2) school years and who performs
27 teaching duties for the equivalent of at least seventy (70) full school days during

1 those years shall be credited with one (1) year of experience. No more than one (1)
2 year of experience shall be credited for the performance of teaching duties during a
3 single school year;

4 (11) "Secondary school" means a school consisting of grades seven (7) through twelve
5 (12), or any appropriate combination of grades within this range as determined by
6 the plan of organization for schools authorized by the district board. When grades
7 seven (7) through nine (9) or ten (10) are organized separately as a junior high
8 school, or grades ten (10) through twelve (12) are organized separately as a senior
9 high school and are conducted in separate school plant facilities, each shall be
10 considered a separate secondary school for the purposes of KRS 157.310 to
11 157.440;

12 (12) "Single salary schedule" means a schedule adopted by a local board from which all
13 teachers are paid for one hundred eighty-five (185) days and is based on training,
14 experience, and such other factors as the Kentucky Board of Education may
15 approve and which does not discriminate between salaries paid elementary and
16 secondary teachers. If the budget bill contains a minimum statewide salary
17 schedule, no teacher shall be paid less than the amount specified in the biennial
18 budget salary schedule for the individual teacher's educational qualifications and
19 experience;

20 (13) "Teacher" means any regular or special teacher, principal, supervisor,
21 superintendent, assistant superintendent, librarian, director of pupil personnel, or
22 other member of the teaching or professional staff engaged in the service of the
23 public elementary and secondary school for whom certification is required as a
24 condition of employment;

25 (14) "Percentage of attendance" means the aggregate days attended by pupils in a public
26 school for the school year divided by the aggregate days' membership of pupils in a
27 public school for the school year;

1 (15) "Middle school" means a school consisting of grades five (5) through eight (8) or
2 any appropriate combination of grades as determined by the plan of organization for
3 schools authorized by the district board;

4 (16) "National board certification salary supplement" means an annual supplement
5 added for the life of the certificate to the base salary of a teacher who attains
6 national board certification;

7 **(17) "Virtual program" means a program offered by a public school district in which**
8 **all courses in the program are virtual, do not include regular in-person**
9 **instruction, and are designed as an alternative to traditional in-person school**
10 **programs; and**

11 **(18)**~~(17)~~ "Weather-related low attendance day" means a school day on which the
12 district's attendance falls below the average daily attendance for the prior year due
13 to inclement weather. The district shall submit a request to substitute the prior
14 year's average daily attendance for its attendance on up to ten (10) designated days,
15 along with documentation that the low attendance was due to inclement weather,
16 for approval by the commissioner of education in accordance with Kentucky Board
17 of Education administrative regulations.

18 ➔Section 2. KRS 157.360 is amended to read as follows:

19 (1) (a) In determining the cost of the program to support education excellence in
20 Kentucky, the statewide guaranteed base funding level, as defined in KRS
21 157.320, shall be computed by dividing the amount appropriated for this
22 purpose by the prior year's statewide average daily attendance.

23 (b) When determining the biennial appropriations for the program, the average
24 daily attendance for each fiscal year shall include an estimate of the number
25 of students graduating early under the provisions of KRS 158.142.

26 (2) Each district shall receive an amount equal to the base funding level for each pupil
27 in average daily attendance in the district in the previous year, except a district shall

1 receive an amount equal to one-half (1/2) of the state portion of the average
2 statewide per pupil guaranteed base funding level for each student who graduated
3 early under the provisions of KRS 158.142. Each district's base funding level shall
4 be adjusted by the following factors:

5 (a) The number of at-risk students in the district. At-risk students shall be
6 identified as those approved for the free lunch program under state and federal
7 guidelines. The number of at-risk students shall be multiplied by a factor to be
8 established by the General Assembly. Funds generated under this paragraph
9 may be used to pay for:

- 10 1. Alternative programs for students who are at risk of dropping out of
11 school before achieving a diploma; and
- 12 2. A hazardous duty pay supplement as determined by the local board of
13 education to the teachers who work in alternative programs with
14 students who are violent or assaultive;

15 (b) The number and types of exceptional children in the district as defined by
16 KRS 157.200. Specific weights for each category of exceptionality shall be
17 used in the calculation of the add-on factor for exceptional children; and

18 (c) Transportation costs. The per-pupil cost of transportation shall be calculated
19 as provided by KRS 157.370. Districts which contract to furnish
20 transportation to students attending nonpublic schools may adopt any payment
21 formula which ensures that no public school funds are used for the
22 transportation of nonpublic students.

23 (3) Beginning with the 2015-2016 school year and each year thereafter, the General
24 Assembly shall annually allocate funds equal to one-half (1/2) of the state portion
25 of the average statewide per pupil guaranteed base funding level for each student
26 who graduated early under the provisions of KRS 158.142 the previous school year
27 to the Kentucky Higher Education Assistance Authority for deposit in the early

1 graduation scholarship trust fund.

2 (4) The program to support education excellence in Kentucky shall be fully
3 implemented by the 1994-95 school year.

4 (5) (a) Except for those schools which have implemented school-based decision
5 making, the commissioner of education shall enforce maximum class sizes for
6 every academic course requirement in all grades except in vocal and
7 instrumental music, and physical education classes. Except as provided in
8 subsection (6) of this section, the maximum number of pupils enrolled in a
9 class shall be as follows:

- 10 1. Twenty-four (24) in primary grades (kindergarten through third grade);
- 11 2. Twenty-eight (28) in grade four (4);
- 12 3. Twenty-nine (29) in grades five (5) and six (6);
- 13 4. Thirty-one (31) in grades seven (7) to twelve (12).

14 (b) Except for those schools which have implemented school-based decision
15 making and for virtual programs, class size loads for middle and secondary
16 school classroom teachers shall not exceed the equivalent of one hundred fifty
17 (150) pupil hours per day.

18 (c) The commissioner of education, upon approval of the Kentucky Board of
19 Education, shall adopt administrative regulations for enforcing this provision.
20 These administrative regulations shall include procedures for a superintendent
21 to request an exemption from the Kentucky Board of Education when unusual
22 circumstances warrant an increased class size for an individual class. A
23 request for an exemption shall include specific reasons for the increased class
24 size with a plan for reducing the class size prior to the beginning of the next
25 school year. A district shall not receive in any one (1) year exemptions for
26 more classes than enroll twenty percent (20%) of the pupils in the primary
27 grades and grades four (4) through eight (8).

- 1 (d) In all schools the commissioner of education shall enforce the special
2 education maximum class sizes set by administrative regulations adopted by
3 the Kentucky Board of Education. A superintendent may request an
4 exemption pursuant to paragraph (c) of this subsection. A local school council
5 may request a waiver pursuant to KRS 156.160(2). An exemption or waiver
6 shall not be granted if the increased class size will impede any exceptional
7 child from achieving his or her individual education program in the least
8 restrictive environment.
- 9 (6) In grades four (4) through six (6) with combined grades, the maximum class size
10 shall be the average daily attendance upon which funding is appropriated for the
11 lowest assigned grade in the class. There shall be no exceptions to the maximum
12 class size for combined classes. In combined classes other than the primary grades,
13 no ungraded students shall be placed in a combined class with graded students. In
14 addition, there shall be no more than two (2) consecutive grade levels combined in
15 any one (1) class in grades four (4) through six (6). However, this shall not apply to
16 schools which have implemented school-based decision making.
- 17 (7) If a local school district, through its admission and release committee, determines
18 that an appropriate program in the least restrictive environment for a particular child
19 with a disability includes either part-time or full-time enrollment with a private
20 school or agency within the state or a public or private agency in another state, the
21 school district shall count as average daily attendance in a public school the time
22 that the child is in attendance at the school or agency, contingent upon approval by
23 the commissioner of education.
- 24 (8) Pupils attending a center for child learning and study established under an
25 agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating
26 average daily attendance, be considered as in attendance in the school district in
27 which the child legally resides and which is party to the agreement. For purposes of

1 subsection (1) of this section, teachers who are actually employees of the joint or
2 cooperative action shall be considered as employees of each school district which is
3 a party to the agreement.

4 (9) Program funding shall be increased when the average daily attendance in any
5 district for the first two (2) months of the current school year is greater than the
6 average daily attendance of the district for the first two (2) months of the previous
7 school year. The program funds allotted the district shall be increased by the
8 percent of increase. The average daily attendance in kindergarten is the
9 kindergarten full-time equivalent pupils in average daily attendance.

10 (10) If the average daily attendance for the current school year in any district decreases
11 by ten percent (10%) or more than the average daily attendance for the previous
12 school year, the average daily attendance for purposes of calculating program
13 funding for the next school year shall be increased by an amount equal to two-thirds
14 ($\frac{2}{3}$) of the decrease in average daily attendance. If the average daily attendance
15 remains the same or decreases in the succeeding school year, the average daily
16 attendance for purposes of calculating program funding for the following school
17 year shall be increased by an amount equal to one-third ($\frac{1}{3}$) of the decrease for the
18 first year of the decline.

19 (11) If the percentage of attendance of any school district shall have been reduced more
20 than two percent (2%) during the previous school year, the program funding
21 allotted the district for the current school year shall be increased by the difference in
22 the percentage of attendance for the two (2) years immediately prior to the current
23 school year less two percent (2%).

24 (12) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12)
25 months per year. Vocational agriculture teachers shall be responsible for the
26 following program of instruction during the time period beyond the regular
27 school term established by the local board of education: supervision and

1 instruction of students in agriculture experience programs; group and
2 individual instruction of farmers and agribusinessmen; supervision of student
3 members of agricultural organizations who are involved in leadership training
4 or other activity required by state or federal law; or any program of vocational
5 agriculture established by the Department of Education. During extended
6 employment, no vocational agriculture teacher shall receive salary on a day
7 that the teacher is scheduled to attend an institution of higher education class
8 which could be credited toward meeting any certification requirement.

9 (b) Each teacher of agriculture employed shall submit an annual plan for summer
10 program to the local school superintendent for approval. The summer plan
11 shall include a list of tasks to be performed, purposes for each task, and time
12 to be spent on each task. Approval by the local school superintendent shall be
13 in compliance with the guidelines developed by the Department of Education.
14 The supervision and accountability of teachers of vocational agriculture's
15 summer programs shall be the responsibility of the local school
16 superintendent. The local school superintendent shall submit to the
17 commissioner of education a completed report of summer tasks for each
18 vocational agriculture teacher. Twenty percent (20%) of the approved
19 vocational agriculture programs shall be audited annually by the State
20 Department of Education to determine that the summer plan has been properly
21 executed.

22 (13) (a) In allotting program funds for home and hospital instruction, statewide
23 guaranteed base funding, excluding the capital outlay, shall be allotted for
24 each child in average daily attendance in the prior school year who has been
25 properly identified according to Kentucky Board of Education administrative
26 regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall
27 be reported monthly on forms provided by the Department of Education; and

1 (b) Pursuant to administrative regulations of the Kentucky Board of Education,
2 local school districts shall be reimbursed for home and hospital instruction for
3 pupils unable to attend regular school sessions because of short-term health
4 impairments. A reimbursement formula shall be established by administrative
5 regulations to include such factors as a reasonable per hour, per child
6 allotment for teacher instructional time, with a maximum number of funded
7 hours per week, a reasonable allotment for teaching supplies and equipment,
8 and a reasonable allotment for travel expenses to and from instructional
9 assignments, but the formula shall not include an allotment for capital outlay.
10 Attendance shall be calculated pursuant to KRS 157.270 and shall be reported
11 annually on forms provided by the Department of Education.

12 (14) Except for those schools which have implemented school-based decision making
13 and the school council has voted to waive this subsection and for virtual programs,
14 kindergarten aides shall be provided for each twenty-four (24) full-time equivalent
15 kindergarten students enrolled.

16 (15) Effective July 1, 2001, there shall be no deduction applied against the base funding
17 level for any pupil in average daily attendance who spends a portion of his or her
18 school day in a program at a state-operated career and technical education or
19 vocational facility.

20 (16) During a fiscal year, a school district may request that the Department of Education
21 recalculate its funds allocated under this section if the current year average daily
22 attendance for the twenty (20) day school month as defined in KRS 158.060(1) that
23 contains the most days within the calendar month of January exceeds the prior year
24 adjusted average daily attendance plus growth by at least one percent (1%). Any
25 adjustments in the allotments approved under this subsection shall be proportional
26 to the remaining days in the school year and subject to available funds under the
27 program to support education excellence in Kentucky.

- 1 (17) To calculate the state portion of the program to support education excellence in
2 Kentucky for a school district, the Department of Education shall subtract the local
3 effort required under KRS 157.390(5) from the calculated base funding under the
4 program to support education excellence in Kentucky, as required by this section.
5 The value of the real estate used in this calculation shall be the lesser of the current
6 year assessment or the prior year assessment increased by four percent (4%) plus
7 the value of current year new property. The calculation under this subsection shall
8 be subject to available funds.
- 9 (18) Notwithstanding any other statute or budget of the Commonwealth language to the
10 contrary, time missed due to shortening days for emergencies may be made up by
11 lengthening school days in the school calendar without any loss of funds under the
12 program to support education excellence in Kentucky.
- 13 ➔Section 3. KRS 158.120 is amended to read as follows:
- 14 (1) ~~By July 1, 2022,~~ A board of education shall adopt a nonresident pupil policy to
15 govern the terms under which the district shall allow enrollment of nonresident
16 pupils. Upon allowing nonresident pupil enrollment, the policy shall allow
17 nonresident children to be eligible to enroll in any public school located within the
18 district. The policy shall not discriminate between nonresident pupils, but may
19 recognize enrollment capacity, as determined by the local school district. The
20 nonresident pupil policy and any subsequent changes adopted by a board of
21 education shall be filed with the Kentucky Department of Education no later than
22 thirty (30) days following their adoption.
- 23 (2) Any board of education may charge a reasonable tuition fee per month for each
24 child attending its schools whose parent, guardian, or other legal custodian is not a
25 bona fide resident of the district. Any controversy as to the fee shall be submitted to
26 the Kentucky Board of Education for final settlement. The fee shall be paid by the
27 board of education of the school district in which the pupil resides, except in cases

1 where the board makes provision for the child's education within his or her district.
2 If a board of education is required to pay a pupil's tuition fee, the pupil shall be
3 admitted to a school only upon proper certificate of the board of education of the
4 district in which he or she resides.

5 (3) When it appears to the board of education of any school district that it is convenient
6 for a pupil of any grade residing in that district to attend an approved public school
7 in another district, the board of education may enter into a tuition contract with the
8 public school authorities of the other school district for that purpose, but before a
9 contract is entered into with public school authorities in another state the school
10 shall have been approved by the state school authorities of that state through the
11 grades in which the pupil belongs. When a district undertakes, under operation of a
12 tuition contract or of law, to provide in its school for pupils residing in another
13 district, the district of their residence shall share the total cost of the school,
14 including transportation when furnished at public expense, in proportion to the
15 number of pupils or in accordance with contract agreement between the two (2)
16 boards.

17 **(4) (a) For the purposes of this subsection, "virtual program" has the same**
18 **meaning as in Section 1 of this Act.**

19 **(b) A school district may enroll nonresident pupils on a full-time basis in**
20 **kindergarten through grade twelve (12) in a virtual program offered by that**
21 **district.**

22 **(c) On a district-by-district basis, the maximum number of nonresident pupils a**
23 **school district may enroll in the district's virtual program from another**
24 **school district shall be two percent (2%) of the residing school district's**
25 **average daily attendance from the previous school year.**

26 **(d) If a school district wishes to enroll more than the two percent (2%) limit**
27 **established in paragraph (c) of this subsection, then the school district shall**

1 submit a request to the local board of education of the residing school
2 district to waive the limitation. A waiver granted under this paragraph shall
3 be for one (1) school year.

4 (e) A school district operating a virtual program that enrolls nonresident pupils
5 shall no longer continue the enrollment of nonresident pupils in the
6 program after June 30, 2028, unless explicit permission to do so is provided
7 by the General Assembly.

8 ➔Section 4. For the purposes of this section, "virtual program" means a program
9 offered by a public school district in which all courses in the program are virtual, do not
10 include regular in-person instruction, and are designed as an alternative to traditional in-
11 person school programs. Until June 30, 2028, the commissioner of the Kentucky
12 Department of Education, the Kentucky Board of Education, and the Kentucky
13 Department of Education shall not establish or implement, or require a school district to
14 implement, any cap, limitation, or restriction on enrollment for a virtual program.
15 Additionally, the Kentucky Department of Education and the Kentucky Board of
16 Education shall not reduce or withhold any funds due to a school district from the fund to
17 Support Education Excellence in Kentucky based on the district's operation of a virtual
18 program.