

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 school activities and extracurricular activities in the same*  
21 *manner and subject to the same rules, policies, or standards as full-time students.*

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

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

25 (1) ~~By July 1, 2022, a~~ Each board of education shall adopt a nonresident pupil policy  
26 to govern the terms under which the district shall allow enrollment of nonresident  
27 pupils. Upon allowing nonresident pupil enrollment, the policy shall allow

1 nonresident children to be eligible to enroll in any public school located within the  
2 district. The policy shall not discriminate against any pupil on the basis of  
3 residential address, abilities, disability, race, ethnicity, sex, or socioeconomic  
4 status~~[between nonresident pupils, but may recognize enrollment capacity, as~~  
5 ~~determined by the local school district].~~ The nonresident pupil policy and any  
6 subsequent changes adopted by a board of education shall be filed with the  
7 Kentucky Department of Education no later than thirty (30) days following their  
8 adoption and posted on the district's website.

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

18 (3) When it appears to the board of education of any school district that it is convenient  
19 for a pupil of any grade residing in that district to attend an approved public school  
20 in another district, the board of education may enter into a tuition contract with the  
21 public school authorities of the other school district for that purpose, but before a  
22 contract is entered into with public school authorities in another state the school  
23 shall have been approved by the state school authorities of that state through the  
24 grades in which the pupil belongs. When a district undertakes, under operation of a  
25 tuition contract or of law, to provide in its school for pupils residing in another  
26 district, the district of their residence shall share the total cost of the school,  
27 including transportation when furnished at public expense, in proportion to the

1 number of pupils or in accordance with contract agreement between the two (2)  
2 boards.

3 (4) Each board of education shall adopt policies to calculate and determine the  
4 enrollment capacity of each grade level at each school. The calculated capacities,  
5 current enrollments, and available vacancies shall be posted on the district's  
6 website. The calculation shall be updated monthly. The board of education's  
7 policies shall require that at least ten percent (10%) of the maximum class sizes  
8 established in KRS 157.360 shall be reserved for the enrollment of nonresident  
9 pupils.

10 (5) A board of education's nonresident pupil policy shall allow for nonresident  
11 enrollment throughout the year as available vacancies allow. The enrollment  
12 shall comply with the following:

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

18 (b) Within ten (10) days of submission, the board of education shall review and  
19 act upon the application. The board shall approve the application if there is  
20 capacity at the requested school at the child's grade level; and

21 (c) Within five (5) days of the board's action on the application, the board shall  
22 notify the parent or guardian of the action. If the board denies the  
23 application, the parent or guardian may appeal the local board's decision to  
24 the Kentucky Board of Education within ten (10) days of the receipt of the  
25 notice using a form designated by the state board. The appeal shall be  
26 placed on the state board's agenda at the next regularly scheduled meeting.  
27 After hearing from both the parent or guardian and the local board, the

1           state board shall determine whether the local board's decision with be  
2           upheld, modified, or overturned.

3   **(6) By July 1 of each year, each school district shall report to the Kentucky**  
4   **Department of Education the number of nonresident pupils enrolled during the**  
5   **previous year, the number of nonresident pupils who withdrew from the district,**  
6   **the number of nonresident pupils who submitted an enrollment application, the**  
7   **number of those applications which were denied, and the reasons for each denial.**  
8   **The department shall publish this information on its website.**

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

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

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

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

22   (2) Operates all schools for a minimum school term as provided in KRS 158.070 and  
23       administrative regulations of the Kentucky Board of Education. If the school term is  
24       less than one hundred eighty-five (185) days, including not less than one hundred  
25       seventy (170) student attendance days as defined in KRS 158.070 or one thousand  
26       sixty-two (1,062) hours of instructional time, for any reason not approved by the  
27       Kentucky Board of Education on recommendation of the commissioner, the

1 eligibility of a district for participation in the public school fund shall be in  
2 proportion to the length of term the schools actually operate;

3 (3) Compensates all teachers on the basis of a single salary schedule and in conformity  
4 with the provisions of KRS 157.310 to 157.440;

5 (4) Includes no nonresident pupils in its average daily attendance, except:

6 (a) ~~[1. Until July 1, 2022, pupils listed under a written agreement, which may  
7 be for multiple years, with the district of the pupils' legal residence.~~

8 ~~2. If an agreement cannot be reached, either board may appeal to the  
9 commissioner for settlement of the dispute.~~

10 ~~3. The commissioner shall have thirty (30) days to resolve the dispute.  
11 Either board may appeal the commissioner's decision to the Kentucky  
12 Board of Education.~~

13 ~~4. The commissioner and the Kentucky Board of Education shall consider  
14 the factors affecting the districts, including but not limited to academic  
15 performance and the impact on programs, school facilities,  
16 transportation, and staffing of the districts.~~

17 ~~5. The Kentucky Board of Education shall have sixty (60) days to approve  
18 or amend the decision of the commissioner;~~

19 ~~(b) Beginning July 1, 2022, ]~~ Those nonresident pupils admitted pursuant to  
20 district nonresident pupil policies adopted under Section 2 of this Act ~~[KRS  
21 158.120]; and~~

22 ~~(b)(c) A nonresident pupil who attends a district in which a parent of the pupil  
23 is employed. [All tuition fees required of a nonresident pupil may be waived  
24 for a pupil who meets the requirements of this paragraph.]~~

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

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

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

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

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

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

20 (a) The state board or its designated agency shall assure through promulgation of  
21 administrative regulations that if a secondary school sponsors or intends to  
22 sponsor an athletic activity or sport that is similar to a sport for which  
23 National Collegiate Athletic Association members offer an athletic  
24 scholarship, the school shall sponsor the athletic activity or sport for which a  
25 scholarship is offered. The administrative regulations shall specify which  
26 athletic activities are similar to sports for which National Collegiate Athletic  
27 Association members offer scholarships.

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

15 (c) The state board or any agency designated by the state board to manage  
16 interscholastic athletics shall not promulgate rules, administrative regulations,  
17 or by laws that prohibit pupils in grades seven (7) to eight (8) from  
18 participating in any high school sports except for high school varsity soccer  
19 and football, or from participating on more than one (1) school-sponsored  
20 team at the same time in the same sport. The Kentucky Board of Education, or  
21 an agency designated by the board to manage interscholastic athletics, may  
22 promulgate administrative regulations restricting, limiting, or prohibiting  
23 participation in high school varsity soccer and football for students who have  
24 not successfully completed the eighth grade.

25 (d) 1. The state board or any agency designated by the state board to manage  
26 interscholastic athletics shall allow a member school's team or students  
27 to play against students of a nonmember at-home private school, or a

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



1 board or any agency designated by the state board to manage  
2 interscholastic athletics.

3 (e) Every local board of education shall require an annual medical examination  
4 performed and signed by a physician, physician assistant, advanced practice  
5 registered nurse, or chiropractor, if performed within the professional's scope  
6 of practice, for each student seeking eligibility to participate in any school  
7 athletic activity or sport. The Kentucky Board of Education or any  
8 organization or agency designated by the state board to manage interscholastic  
9 athletics shall not promulgate administrative regulations or adopt any policies  
10 or bylaws that are contrary to the provisions of this paragraph.

11 (f) Any student who turns nineteen (19) years of age prior to August 1 shall not  
12 be eligible for high school athletics in Kentucky. Any student who turns  
13 nineteen (19) years of age on or after August 1 shall remain eligible for that  
14 school year only. An exception to the provisions of this paragraph shall be  
15 made, and the student shall be eligible for high school athletics in Kentucky if  
16 the student:

- 17 1. Qualified for exceptional children services and had an individual  
18 education program developed by an admissions and release committee  
19 (ARC) while the student was enrolled in the primary school program;
- 20 2. Was retained in the primary school program because of an ARC  
21 committee recommendation; and
- 22 3. Has not completed four (4) consecutive years or eight (8) consecutive  
23 semesters of eligibility following initial promotion from grade eight (8)  
24 to grade nine (9).

25 (g) The state board or any agency designated by the state board to manage  
26 interscholastic athletics shall promulgate administrative regulations or bylaws  
27 that provide that:

- 1           1.    A member school shall designate all athletic teams, activities, and sports  
2                    for students in grades six (6) through twelve (12) as one (1) of the  
3                    following categories:  
4                    a.    "Boys";  
5                    b.    "Coed"; or  
6                    c.    "Girls";  
7           2.    The sex of a student for the purpose of determining eligibility to  
8                    participate in an athletic activity or sport shall be determined by:  
9                    a.    A student's biological sex as indicated on the student's original,  
10                    unedited birth certificate issued at the time of birth; or  
11                    b.    An affidavit signed and sworn to by the physician, physician  
12                    assistant, advanced practice registered nurse, or chiropractor that  
13                    conducted the annual medical examination required by paragraph  
14                    (e) of this subsection under penalty of perjury establishing the  
15                    student's biological sex at the time of birth;  
16           3.    a.    An athletic activity or sport designated as "girls" for students in  
17                    grades six (6) through twelve (12) shall not be open to members of  
18                    the male sex.  
19                    b.    Nothing in this section shall be construed to restrict the eligibility  
20                    of any student to participate in an athletic activity or sport  
21                    designated as "boys" or "coed"; and  
22           4.    Neither the state board, any agency designated by the state board to  
23                    manage interscholastic athletics, any school district, nor any member  
24                    school shall entertain a complaint, open an investigation, or take any  
25                    other adverse action against a school for maintaining separate  
26                    interscholastic or intramural athletic teams, activities, or sports for  
27                    students of the female sex.

- 1 (h) 1. The state board or any agency designated by the state board to manage  
2 interscholastic athletics shall promulgate administrative regulations that  
3 permit a school district to employ or assign nonteaching or noncertified  
4 personnel or personnel without postsecondary education credit hours to  
5 serve in a coaching position. The administrative regulations shall give  
6 preference to the hiring or assignment of certified personnel in coaching  
7 positions.
- 8 2. A person employed in a coaching position shall be a high school  
9 graduate and at least twenty-one (21) years of age and shall submit to a  
10 criminal background check in accordance with KRS 160.380.
- 11 3. The administrative regulations shall specify post-hire requirements for  
12 persons employed in coaching positions.
- 13 4. The regulations shall permit a predetermined number of hours of  
14 professional development training approved by the state board or its  
15 designated agency to be used in lieu of postsecondary education credit  
16 hour requirements.
- 17 5. A local school board may specify post-hire requirements for personnel  
18 employed in coaching positions in addition to those specified in  
19 subparagraph 3. of this paragraph.
- 20 (i) Unless permitted to be eligible for varsity athletics by any transfer rule,  
21 policy, or administrative regulation promulgated by the state board or any  
22 agency designated by the state board to manage interscholastic athletics, any  
23 student who transfers enrollment from a district of residence to a nonresident  
24 district under Section 2 of this Act ~~[KRS 157.350(4)(b)]~~ after enrolling in  
25 grade nine (9) and participating in a varsity sport shall be ineligible to  
26 participate in interscholastic athletics for one (1) calendar year from the date  
27 of the transfer. The state board or any agency designated by the state board to

1 manage interscholastic athletics may adopt rules, policies, and bylaws and  
2 promulgate administrative regulations necessary to carry out this paragraph.

3 (j) No member school shall grant a student-athlete the right to use the member  
4 school's intellectual property, such as trademarks, school uniforms, and  
5 copyrights, in the student's earning of compensation through name, image,  
6 and likeness activities. No student-athlete shall use such intellectual property  
7 in earning compensation through name, image, and likeness activities. The  
8 state board or any agency designated by the state board to manage  
9 interscholastic athletics shall promulgate administrative regulations to govern  
10 and enforce this paragraph.

11 (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State  
12 Property and Buildings Commission or others, whether public or private, any  
13 lands, buildings, structures, installations, and facilities suitable for use in  
14 establishing and furthering television and related facilities as an aid or  
15 supplement to classroom instruction throughout the Commonwealth and for  
16 incidental use in any other proper public functions. The lease may be for any  
17 initial term commencing with the date of the lease and ending with the next  
18 ensuing June 30, which is the close of the then-current fiscal biennium of the  
19 Commonwealth, with exclusive options in favor of the board to renew the  
20 same for successive ensuing bienniums, July 1 in each even year to June 30 in  
21 the next ensuing even year; and the rentals may be fixed at the sums in each  
22 biennium, if renewed, sufficient to enable the State Property and Buildings  
23 Commission to pay therefrom the maturing principal of and interest on, and  
24 provide reserves for, any revenue bonds which the State Property and  
25 Buildings Commission may determine to be necessary and sufficient, in  
26 agreement with the board, to provide the cost of acquiring the television and  
27 related facilities with appurtenances and costs as may be incident to the

1 issuance of the bonds.

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

15 (c) The Kentucky Board of Education shall not itself operate leased television  
16 facilities, or undertake the preparation of the educational presentations or  
17 films to be transmitted thereby, but may enter into one (1) or more contracts  
18 to provide therefor, with any public agency and instrumentality of the  
19 Commonwealth having, or able to provide, a staff with proper technical  
20 qualifications, upon which agency and instrumentality the board, through the  
21 chief state school officer and the Department of Education, is represented in  
22 such manner as to coordinate matters of curriculum with the curricula  
23 prescribed for the public schools of the Commonwealth. Any contract for the  
24 operation of the leased television or related facilities may permit limited and  
25 special uses of the television or related facilities for other programs in the  
26 public interest, subject to the reasonable terms and conditions as the board and  
27 the operating agency and instrumentality may agree upon; but any contract

1 shall affirmatively forbid the use of the television or related facilities, at any  
2 time or in any manner, in the dissemination of political propaganda or in  
3 furtherance of the interest of any political party or candidate for public office,  
4 or for commercial advertising. No lease between the board and the State  
5 Property and Buildings Commission shall bind the board to pay rentals for  
6 more than one (1) fiscal biennium at a time, subject to the aforesaid renewal  
7 options. The board may receive and may apply to rental payments under any  
8 lease and to the cost of providing for the operation of the television or related  
9 facilities not only appropriations which may be made to it from state funds,  
10 from time to time, but also contributions, gifts, matching funds, devises, and  
11 bequests from any source, whether federal or state, and whether public or  
12 private, so long as the same are not conditioned upon any improper use of the  
13 television or related facilities in a manner inconsistent with the provisions of  
14 this subsection.

15 (4) The state board may, on the recommendation and with the advice of the chief state  
16 school officer, prescribe, print, publish, and distribute at public expense such  
17 administrative regulations, courses of study, curriculums, bulletins, programs,  
18 outlines, reports, and placards as each deems necessary for the efficient  
19 management, control, and operation of the schools and programs under its  
20 jurisdiction. All administrative regulations published or distributed by the board  
21 shall be enclosed in a booklet or binder on which the words "informational copy"  
22 shall be clearly stamped or printed.

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