

1 AN ACT relating to schools and declaring an emergency.

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

3 ➔Section 1. KRS 160.145 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Family member" means:

6 1. A parent, brother, sister, son, daughter, aunt, uncle, *cousin*, or
7 grandparent *related to the student by consanguinity, affinity, or*
8 *adoption; or*

9 2. *An adult that resides in the same household as the student;*

10 (b) "Parent" means a parent, legal guardian, *a person acting as a parent in the*
11 *absence of a parent or guardian*, or other *individual*~~[person]~~ or agency
12 responsible for *the*~~[a]~~ student;

13 (c) *"Private electronic communication" means electronic communication that*
14 *involves direct one-on-one or group conversations that are only accessible*
15 *to the participants;*

16 (d) *"Qualified school volunteer" means an adult who:*

17 1. *Is not:*

18 *a. A school district employee; or*

19 *b. Enrolled in the school district; and*

20 2. *Has served the school or school district at any point during the current*
21 *school year;*

22 *a. As a student teacher, a nonfaculty coach or assistant coach, a*
23 *nonfaculty sponsor of an extracurricular program or activity, or*
24 *a school-sponsored academic tutor; or*

25 *b. In a nonfaculty student services role designated as a qualified*
26 *school volunteer by the local board of education.*

27 (e) "School district employee~~[or volunteer]~~":

1 1. Means a school administrator, classified or contract employee who is
 2 not enrolled in the school district,~~for~~ certified employee~~of a school~~
 3 ~~district, school volunteer~~, or compensated nonfaculty coach or assistant
 4 coach; and

5 2. Includes any Kentucky Department of Education or educational
 6 cooperative employee who is assigned to a school or area technology
 7 center within the school district, ~~student teacher, or sponsor of an~~
 8 ~~extracurricular program or activity~~;

9 ~~(f)~~~~(d)~~ "Traceable communication system" means one (1) or more electronic
 10 school notification and communication programs or applications that:

- 11 1. Are designated by a local board of education in accordance with
- 12 subsection (2) of this section;
- 13 2. Trace all communications sent to or by a student; and
- 14 3. Provide parents an opportunity to access and review those
- 15 communications; and

16 ~~(g)~~~~(e)~~ "Unauthorized electronic communication":

- 17 1. Means private~~an~~ electronic communication with a student enrolled in
 18 a school district by the~~a~~ school district's~~district~~ employee or
 19 qualified school volunteer who is not the student's family member that
 20 occurs outside of a designated traceable communication system and
 21 without prior written parental consent;~~and~~

- 22 2. Includes any private electronic communication with a student or
 23 students enrolled in the school district through a personal email
 24 account, text messaging, social media, or other private electronic
 25 ~~notification and~~ communication program~~programs~~ outside of the
 26 traceable communication system~~;~~ and

27 3. Does not include:

- a. Virtual school instruction;
- b. Electronic translation services;
- c. Electronic communication with any telephone number provided by a parent for the purpose of school communication with that parent;
- d. Electronic communication in which a parent of the student is included as a recipient or participant;
- e. Voice communication on an official telephone number affiliated with the school or school district;
- f. Social media posts and comments that are not private electronic communication;
- g. Electronic communication related to commercial products or services with a telephone number, email address, or other electronic account affiliated with a lawful commercial business;
- or
- h. Secure messaging for healthcare providers.

(2) Each local board of education shall designate a traceable communication system~~[-to be the exclusive means]~~ for ~~[a]~~ school district employees and qualified school volunteers~~[employee or volunteer]~~ to communicate electronically with students enrolled in the school district. The principal of each public school shall provide parents written or electronic notification within the first ten (10) days of the school year of each electronic school notification and communication program designated within the traceable communication system. The notification shall include instructions for parents to access and review communications sent through each electronic school notification and communication program.

(3) (a) ~~[Except as provided in subsections (4) and (5) of this section,]~~ A school district employee or qualified school volunteer shall not engage in

1 ~~unauthorized electronic communication~~~~[communicate electronically with a~~
2 ~~student;~~

3 ~~1. Outside of the traceable communication system designated by the local~~
4 ~~board of education; or~~

5 ~~2. Through an unauthorized electronic communication program or~~
6 ~~application].~~

7 (b) A school district employee that violates paragraph (a) of this subsection
8 ~~may~~~~[shall]~~ be subject to disciplinary action in accordance with:

- 9 1. For certified employees, KRS 161.120 and 161.790; or
10 2. For classified employees, KRS 161.011(7).

11 (c) A qualified school volunteer that violates paragraph (a) of this subsection
12 ~~may~~~~[shall]~~ be prohibited by the school district from future school volunteer
13 opportunities.

14 (4) A parent may submit written consent to authorize a designated school district
15 employee or qualified school volunteer who is not a family member to participate
16 in private electronic communication~~[communicate electronically]~~ with his or her
17 child outside of the traceable communication system. The written consent:

18 (a) Shall be filed in the administrative office of the student's school;

19 **(b) Shall be submitted to the administrative office** prior to any private electronic
20 communication being sent from a school district employee or qualified school
21 volunteer to a student outside of the traceable communication system;

22 **(c)**~~(b)~~ Shall designate each~~[a single]~~ specific school district employee or
23 qualified school volunteer~~[per each consent form]~~ that may participate in
24 private electronic communication~~[communicate]~~ with the student outside of
25 the traceable communication system and shall not be transferable to any other
26 school district employee or qualified school volunteer;

27 **(d)**~~(e)~~ May be revoked by the~~[a]~~ parent who filed the consent at any time.

1 Upon notice of a revocation, the administrative office shall promptly notify
2 the school district and each school district employee and qualified school
3 volunteer subject to the revocation;

4 ~~(e)(d)~~ May establish terms limiting electronic communication with a student,
5 including ~~{a term requiring that a parent be included as a direct party to all~~
6 ~~electronic communications sent to the student outside of the traceable~~
7 ~~communication system or }~~establishing an expiration for the term of the
8 consent. Any electronic communication with ~~the~~~~{a}~~ student enrolled in the
9 school district outside of the traceable communication system under this
10 subsection shall comply with all terms of the written consent;~~{and}~~

11 (f) Shall not be rejected or denied by the school or school district unless the
12 written consent fails to properly identify the applicable student, school
13 district employee, or qualified school volunteer. Upon receipt of the written
14 consent, the administrative office of the school shall deliver a copy of the
15 written consent to the school district and the designated school district
16 employee or qualified school volunteer;

17 (g) Shall not be compelled as a requirement for a student to participate in an
18 academic, athletic, or extracurricular opportunity; and

19 ~~(h)(e)~~ Shall not authorize a school district employee or qualified school
20 volunteer to engage in inappropriate or sexual electronic communication with
21 a student or be used as a basis of a defense for a school district employee or
22 qualified school volunteer that engages in inappropriate or sexual electronic
23 communication with a student or students.

24 (5) Notwithstanding subsections (2) and (3) of this section, this section shall not restrict
25 any private electronic communications;

26 (a) Between a student and his or her family member who is a school district
27 employee or qualified school volunteer; or

1 (b) Between a student and a school district employee or qualified school
2 volunteer who reasonably believes an emergency exists that creates an
3 imminent risk to any person or property, provided the school district
4 employee promptly discloses the private electronic communication to his or
5 her immediate supervisor after the fact in accordance with subsection (6) of
6 this section.

7 (6) (a) A school district employee or qualified school volunteer that participated in
8 unauthorized electronic communication or reasonably believes~~receives a~~
9 ~~report alleging~~ that another school district employee or qualified school
10 volunteer participated in unauthorized electronic communication that has not
11 been previously reported shall immediately notify the supervising principal or
12 applicable supervisor. If the subject of the report is the principal or district-
13 wide employee, the reporting employee or volunteer shall immediately notify
14 the superintendent of the school district. If the subject of the report is the
15 superintendent or a Kentucky Department of Education employee assigned
16 to a school or area technology center within the school district, the reporting
17 employee or volunteer shall immediately notify the commissioner of
18 education and the chair of the local board of education.

19 (b) A school district employee that violates paragraph (a) of this subsection
20 ~~may~~~~shall~~ be subject to disciplinary action in accordance with:

- 21 1. For certified employees, KRS 161.120 and 161.790; or
- 22 2. For classified employees, KRS 161.011(7).

23 (7) (a) Upon receipt of a report alleging that a school district employee or qualified
24 school volunteer participated in unauthorized electronic communication, the
25 commissioner of education, a principal, or a superintendent shall immediately:
26 1. Notify the parent of each student that is an alleged party to the
27 unauthorized electronic communications; and

- 1 2. a. If the individual that is the subject of the report is a certified
2 employee:
- 3 i. Notify the Education Professional Standards Board, which
4 shall promptly investigate all allegations received under this
5 subsection and proceed with appropriate disciplinary actions
6 in accordance with KRS 161.120; and
- 7 ii. Investigate the underlying allegations and proceed with
8 appropriate disciplinary actions in accordance with KRS
9 161.790;
- 10 b. If the individual that is the subject of the report is a classified
11 employee, investigate the underlying allegations and proceed with
12 appropriate disciplinary actions in accordance with KRS
13 161.011(7); and
- 14 c. If the individual that is the subject of the report is a qualified
15 school~~[-or district]~~ volunteer, the school or district shall investigate
16 the underlying allegations and, if substantiated, the qualified
17 school volunteer may~~[shall]~~ be prohibited from future school and
18 district volunteer opportunities.
- 19 (b) A principal or superintendent who violates paragraph (a) of this subsection
20 shall be subject to disciplinary action in accordance with KRS 156.132 and
21 161.120.
- 22 ➔Section 2. If a school district volunteer was prohibited from future school
23 volunteer opportunities pursuant to subsection (3)(c) of Section 1 of this Act prior to the
24 effective date of this Act, a school district may permit that person to participate in future
25 school volunteer opportunities.
- 26 ➔Section 3. Whereas it is critical to ensure that parents, schools, and school
27 districts have clarity on lawful electronic communication with students, an emergency is

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