

1 AN ACT relating to school lunches.

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

3 ➔Section 1. KRS 160.345 is amended to read as follows:

4 (1) For the purpose of this section:

5 (a) "Minority" means American Indian; Alaskan native; African-American;
6 Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or
7 South American origin; Pacific islander; or other ethnic group
8 underrepresented in the school;

9 (b) "School" means an elementary or secondary educational institution that is
10 under the administrative control of a principal and is not a program or part of
11 another school. The term "school" does not include district-operated schools
12 that are:

- 13 1. Exclusively vocational-technical, special education, or preschool
14 programs;
15 2. Instructional programs operated in institutions or schools outside of the
16 district; or
17 3. Alternative schools designed to provide services to at-risk populations
18 with unique needs;

19 (c) "Teacher" means any person for whom certification is required as a basis of
20 employment in the public schools of the state, with the exception of principals
21 and assistant principals; and

22 (d) "Parent" means:

- 23 1. A parent, stepparent, or foster parent of a student; or
24 2. A person who has legal custody of a student pursuant to a court order
25 and with whom the student resides.

26 (2) Each local board of education shall adopt a policy for implementing school-based
27 decision making in the district which shall include but not be limited to a

1 description of how the district's policies, including those developed pursuant to
2 KRS 160.340, have been amended to allow the professional staff members of a
3 school to be involved in the decision-making process as they work to meet
4 educational goals established in KRS 158.645 and 158.6451. The policy may
5 include a requirement that each school council make an annual report at a public
6 meeting of the board describing the school's progress in meeting the educational
7 goals set forth in KRS 158.6451 and district goals established by the board. The
8 policy shall also address and comply with the following:

9 (a) Except as provided in paragraph (b)2. of this subsection, each participating
10 school shall form a school council composed of two (2) parents, three (3)
11 teachers, and the principal or administrator. The membership of the council
12 may be increased, but it may only be increased proportionately. A parent
13 representative on the council shall not be an employee or a relative of an
14 employee of the school in which that parent serves, nor shall the parent
15 representative be an employee or a relative of an employee in the district
16 administrative offices. A parent representative shall not be a local board
17 member or a board member's spouse. None of the members shall have a
18 conflict of interest pursuant to KRS Chapter 45A, except the salary paid to
19 district employees;

20 (b) 1. The teacher representatives shall be elected for one (1) year terms by a
21 majority of the teachers. A teacher elected to a school council shall not
22 be involuntarily transferred during the teacher representative's term of
23 office. The parent representatives shall be elected for one (1) year terms.
24 The parent members shall be elected by the parents of students
25 preregistered to attend the school during the term of office in an election
26 conducted by the parent and teacher organization of the school or, if
27 none exists, the largest organization of parents formed for this purpose.

1 Council elections may allow voting to occur over multiple days and via
2 electronic means. A school council, once elected, may adopt a policy
3 setting different terms of office for parent and teacher members
4 subsequently elected. The principal shall be the chair of the school
5 council.

- 6 2. School councils in schools having eight percent (8%) or more minority
7 students enrolled, as determined by the enrollment on the preceding
8 October 1, shall have at least one (1) minority member. If the council
9 formed under paragraph (a) of this subsection does not have a minority
10 member, the principal, in a timely manner, shall be responsible for
11 carrying out the following:

- 12 a. Organizing a special election to elect an additional member. The
13 principal shall call for nominations and shall notify the parents of
14 the students of the date, time, and location of the election to elect a
15 minority parent to the council by ballot; and
16 b. Allowing the teachers in the building to select one (1) minority
17 teacher to serve as a teacher member on the council. If there are no
18 minority teachers who are members of the faculty, an additional
19 teacher member shall be elected by a majority of all teachers.
20 Term limitations shall not apply for a minority teacher member
21 who is the only minority on faculty;

- 22 (c) 1. The school council shall have the responsibility to set school policy that
23 shall be consistent with district board policy and which shall provide an
24 environment to enhance the students' achievement and help the school
25 meet the goals established by KRS 158.645 and 158.6451 and goals for
26 the district established by the board. The principal shall be the primary
27 administrator and the instructional leader of the school, and with the

1 assistance of the total school staff shall administer the policies
2 established by the school council and the local board.

3 2. If a school council establishes committees, it shall adopt a policy to
4 facilitate the participation of interested persons, including~~[-]~~ but not
5 limited to~~[-]~~ classified employees and parents. The policy shall include
6 the number of committees, their jurisdiction, composition, and the
7 process for membership selection;

8 (d) The school council and each of its committees shall determine the frequency
9 of and agenda for their meetings. Matters relating to formation of school
10 councils that are not provided for by this section shall be addressed by local
11 board policy;

12 (e) The meetings of the school council shall be open to the public and all
13 interested persons may attend. However, the exceptions to open meetings
14 provided in KRS 61.810 shall apply;

15 (f) After receiving notification of the funds available for the school from the local
16 board, the school council shall determine, within the parameters of the total
17 available funds, the number of persons to be employed in each job
18 classification at the school. The council may make personnel decisions on
19 vacancies occurring after the school council is formed but shall not have the
20 authority to recommend transfers or dismissals;

21 (g) The local superintendent shall determine which curriculum, textbooks,
22 instructional materials, and student support services shall be provided in the
23 school after consulting with the local board of education, the school principal,
24 and the school council and after a reasonable review and response period for
25 stakeholders in accordance with local board of education policy. Subject to
26 available resources, the local board shall allocate an appropriation to each
27 school that is adequate to meet the school's needs related to instructional

1 materials and school-based student support services, as determined by the
2 school principal after consultation with the school council. The school council
3 shall consult with the school media librarian on the maintenance of the school
4 library media center, including the purchase of instructional materials,
5 information technology, and equipment;

6 (h) Personnel decisions at the school level shall be as follows:

7 1. From a list of qualified applicants submitted by the local superintendent,
8 the principal at the participating school shall select personnel to fill
9 vacancies, after consultation with the school council, consistent with
10 paragraph (i)~~12.111~~ of this subsection. The superintendent shall
11 provide additional applicants to the principal upon request when
12 qualified applicants are available. The superintendent may forward to
13 the school principal the names of qualified applicants who have pending
14 certification from the Education Professional Standards Board based on
15 recent completion of preparation requirements, out-of-state preparation,
16 or alternative routes to certification pursuant to KRS 161.028 and
17 161.048. Requests for transfer shall conform to any employer-employee
18 bargained contract which is in effect;

19 2. If the vacancy to be filled is the position of principal:

20 a. The superintendent shall fill the vacancy after consultation with
21 the school council consistent with paragraph (i)~~12.111~~ of this
22 subsection;

23 b. Prior to consultation with the school council, each member shall
24 sign a nondisclosure agreement forbidding the disclosure of
25 information shared and discussions held during consultation;

26 c. A person who believes a violation of the nondisclosure agreement
27 referred to in subdivision b. of this subparagraph has occurred may

- 1 file a written complaint with the Kentucky Board of Education;
2 and
- 3 d. A school council member found to have violated the nondisclosure
4 agreement referred to in subdivision b. of this subparagraph may
5 be subject to removal from the school council by the Kentucky
6 Board of Education under subsection (9)(e) of this section;
- 7 3. Notwithstanding subparagraph 2. of this paragraph, if the vacancy to be
8 filled is the position of principal in a county school district in a county
9 with a consolidated local government adopted under KRS Chapter 67C,
10 then:
- 11 a. The outgoing principal shall not serve on the council during the
12 principal selection process. The superintendent or the
13 superintendent's designee shall serve as the chair of the council for
14 the purpose of the hiring process and shall have voting rights
15 during the selection process;
- 16 b. The council shall have access to the applications of all persons
17 certified for the position. The principal shall be elected on a
18 majority vote of the membership of the council. The school
19 council shall receive training in recruitment and interviewing
20 techniques prior to carrying out the process of selecting a
21 principal. The council shall select the trainer to deliver the
22 training; and
- 23 c. Notwithstanding the requirement that a principal be elected by a
24 majority vote of the council, the selection of a principal shall be
25 subject to approval by the superintendent. If the superintendent
26 does not approve the principal selected by the council, then the
27 superintendent may select the principal;

- 1 4. No principal who has been previously removed from a position in the
2 district for cause may be considered for appointment as principal in that
3 district;
- 4 5. Personnel decisions made at the school level under the authority of
5 subparagraph 1. of this paragraph shall be binding on the superintendent
6 who completes the hiring process;
- 7 6. Applicants subsequently employed shall provide evidence that they are
8 certified prior to assuming the duties of a position in accordance with
9 KRS 161.020; and
- 10 7. Notwithstanding other provisions of this paragraph, if the applicant is
11 the spouse of the superintendent and the applicant meets the service
12 requirements of KRS 160.380(3)(a), the applicant shall only be
13 employed upon the recommendation of the principal and the approval of
14 a majority vote of the school council;
- 15 (i) The school council shall adopt a policy that shall be consistent with local
16 board policy and shall be implemented by the principal in the following
17 additional areas:
 - 18 1. Curriculum responsibilities under KRS 158.6453(19);
 - 19 2. Assignment of all instructional and noninstructional staff time;
 - 20 3. Assignment of students to classes and programs within the school;
 - 21 4. Determination of the schedule of the school day and week, subject to the
22 beginning and ending times of the school day and school calendar year
23 as established by the local board;
 - 24 5. Assignment of students to a lunch period of at least thirty (30) minutes
25 in length during the school day;
 - 26 6. Determination of use of school space during the school day related to
27 improving classroom teaching and learning;

- 1 ~~7.~~^{6.} Planning and resolution of issues regarding instructional practices;
- 2 ~~8.~~^{7.} Selection and implementation of discipline and classroom management
- 3 techniques as a part of a comprehensive school safety plan, including
- 4 responsibilities of the student, parent, teacher, counselor, and principal;
- 5 ~~9.~~^{8.} Selection of extracurricular programs and determination of policies
- 6 relating to student participation based on academic qualifications and
- 7 attendance requirements, program evaluation, and supervision;
- 8 ~~10.~~^{9.} Adoption of an emergency plan as required in KRS 158.162;
- 9 ~~11.~~^{10.} Procedures, consistent with local school board policy, for
- 10 determining alignment with state standards, technology utilization, and
- 11 program appraisal; and
- 12 ~~12.~~^{11.} Procedures to assist the council with consultation in the selection
- 13 of the principal by the superintendent, and the selection of personnel by
- 14 the principal, including but not limited to meetings, timelines,
- 15 interviews, review of written applications, and review of references.
- 16 Procedures shall address situations in which members of the council are
- 17 not available for consultation; and
- 18 (j) Each school council shall annually review data as shown on state and local
- 19 student assessments required under KRS 158.6453. The data shall include but
- 20 not be limited to information on performance levels of all students tested, and
- 21 information on the performance of students disaggregated by race, gender,
- 22 disability, and participation in the federal free and reduced price lunch
- 23 program. After completing the review of data, each school council, with the
- 24 involvement of parents, faculty, and staff, shall develop and adopt a plan to
- 25 ensure that each student makes progress toward meeting the goals set forth in
- 26 KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan
- 27 to the superintendent and local board of education for review as described in

1 KRS 160.340. The Kentucky Department of Education shall provide each
2 school council the data needed to complete the review required by this
3 paragraph no later than October 1 of each year. If a school does not have a
4 council, the review shall be completed by the principal with the involvement
5 of parents, faculty, and staff.

6 (3) The policies adopted by the local board to implement school-based decision making
7 shall also address the following:

8 (a) School budget and administration, including: discretionary funds; activity and
9 other school funds; funds for maintenance, supplies, and equipment; and
10 procedures for authorizing reimbursement for training and other expenses;

11 (b) Assessment of individual student progress, including testing and reporting of
12 student progress to students, parents, the school district, the community, and
13 the state;

14 (c) School improvement plans, including the form and function of strategic
15 planning and its relationship to district planning, as well as the school safety
16 plan and requests for funding from the Center for School Safety under KRS
17 158.446;

18 (d) Professional development plans developed pursuant to KRS 156.095;

19 (e) Parent, citizen, and community participation including the relationship of the
20 council with other groups;

21 (f) Cooperation and collaboration within the district, with other districts, and with
22 other public and private agencies;

23 (g) Requirements for waiver of district policies;

24 (h) Requirements for record keeping by the school council; and

25 (i) A process for appealing a decision made by a school council.

26 (4) In addition to the authority granted to the school council in this section, the local
27 board may grant to the school council any other authority permitted by law. The

1 board shall make available liability insurance coverage for the protection of all
2 members of the school council from liability arising in the course of pursuing their
3 duties as members of the council.

4 (5) All schools shall implement school-based decision making in accordance with this
5 section and with the policy adopted by the local board pursuant to this section.
6 Upon favorable vote of a majority of the faculty at the school and a majority of at
7 least twenty-five (25) voting parents of students enrolled in the school, a school
8 meeting its goal as determined by the Department of Education pursuant to KRS
9 158.6455 may apply to the Kentucky Board of Education for exemption from the
10 requirement to implement school-based decision making, and the state board shall
11 grant the exemption. The voting by the parents on the matter of exemption from
12 implementing school-based decision making shall be in an election conducted by
13 the parent and teacher organization of the school or, if none exists, the largest
14 organization of parents formed for this purpose. Notwithstanding the provisions of
15 this section, a local school district shall not be required to implement school-based
16 decision making if the local school district contains only one (1) school.

17 (6) The Department of Education shall provide professional development activities to
18 assist schools in implementing school-based decision making. School council
19 members elected for the first time shall complete a minimum of six (6) clock hours
20 of training in the process of school-based decision making, no later than thirty (30)
21 days after the beginning of the service year for which they are elected to serve.
22 School council members who have served on a school council at least one (1) year
23 shall complete a minimum of three (3) clock hours of training in the process of
24 school-based decision making no later than one hundred twenty (120) days after the
25 beginning of the service year for which they are elected to serve. Experienced
26 members may participate in the training for new members to fulfill their training
27 requirement. School council training required under this subsection shall be

1 conducted by trainers endorsed by the Department of Education. By November 1 of
2 each year, the principal through the local superintendent shall forward to the
3 Department of Education the names and addresses of each council member and
4 verify that the required training has been completed. School council members
5 elected to fill a vacancy shall complete the applicable training within thirty (30)
6 days of their election.

7 (7) A school that chooses to have school-based decision making but would like to be
8 exempt from the administrative structure set forth by this section may develop a
9 model for implementing school-based decision making, including but not limited to
10 a description of the membership, organization, duties, and responsibilities of a
11 school council. The school shall submit the model through the local board of
12 education to the commissioner of education and the Kentucky Board of Education,
13 which shall have final authority for approval. The application for approval of the
14 model shall show evidence that it has been developed by representatives of the
15 parents, students, certified personnel, and the administrators of the school and that
16 two-thirds (2/3) of the faculty have agreed to the model.

17 (8) The Kentucky Board of Education, upon recommendation of the commissioner of
18 education, shall adopt by administrative regulation a formula by which school
19 district funds shall be allocated to each school council. Included in the school
20 council formula shall be an allocation for professional development that is at least
21 sixty-five percent (65%) of the district's per pupil state allocation for professional
22 development for each student in average daily attendance in the school. The school
23 council shall plan professional development in compliance with requirements
24 specified in KRS 156.095, except as provided in KRS 158.649. School councils of
25 small schools shall be encouraged to work with other school councils to maximize
26 professional development opportunities.

27 (9) (a) No board member, superintendent of schools, district employee, or member of

1 a school council shall intentionally engage in a pattern of practice which is
2 detrimental to the successful implementation of or circumvents the intent of
3 school-based decision making to allow the professional staff members of a
4 school and parents to be involved in the decision making process in working
5 toward meeting the educational goals established in KRS 158.645 and
6 158.6451 or to make decisions in areas of policy assigned to a school council
7 pursuant to paragraph (i) of subsection (2) of this section.

8 (b) An affected party who believes a violation of this subsection has occurred
9 may file a written complaint with the Office of Education Accountability. The
10 office shall investigate the complaint and resolve the conflict, if possible, or
11 forward the matter to the Kentucky Board of Education.

12 (c) The Kentucky Board of Education shall conduct a hearing in accordance with
13 KRS Chapter 13B for complaints referred by the Office of Education
14 Accountability.

15 (d) If the state board determines a violation has occurred, the party shall be
16 subject to reprimand. A second violation of this subsection may be grounds
17 for removing a superintendent or a member of a school council from office or
18 grounds for dismissal of an employee for misconduct in office or willful
19 neglect of duty.

20 (e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the
21 state board determines a violation of the nondisclosure agreement required by
22 subsection (2)(h)2.b. of this section by a school council member has occurred,
23 the state board shall remove the member from the school council, and the
24 member shall be permanently prohibited from serving on any school council
25 in the district.

26 (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or
27 maintain a school-based decision making council and the powers, duties, and

1 authority granted to a school council may be rescinded or the school council's role
2 may be advisory if the commissioner of education or the Kentucky Board of
3 Education takes action under KRS 160.346.

4 (11) Each school council of a school containing grades K-5 or any combination thereof,
5 or if there is no school council, the principal, shall develop and implement a
6 wellness policy that includes moderate to vigorous physical activity each day and
7 encourages healthy choices among students. The policy may permit physical
8 activity to be considered part of the instructional day, not to exceed thirty (30)
9 minutes per day, or one hundred and fifty (150) minutes per week. Each school
10 council, or if there is no school council, the principal, shall adopt an assessment tool
11 to determine each child's level of physical activity on an annual basis. The council
12 or principal may utilize an existing assessment program. The Kentucky Department
13 of Education shall make available a list of available resources to carry out the
14 provisions of this subsection. The department shall report to the Legislative
15 Research Commission no later than November 1 of each year on how the schools
16 are providing physical activity under this subsection and on the types of physical
17 activity being provided. The policy developed by the school council or principal
18 shall comply with provisions required by federal law, state law, or local board
19 policy.

20 ➔Section 2. KRS 158.153 is amended to read as follows:

21 (1) Unless the action is taken pursuant to KRS 158.150, no school, school
22 administrator, teacher, or other school employee shall expel or punish a child based
23 on information contained in a record of an adjudication of delinquency or
24 conviction of an offense received by the school pursuant to KRS 610.345 or from
25 any other source. Nothing in this subsection shall be construed to prohibit a local
26 school board or school official from instituting disciplinary proceedings against any
27 student for violating the discipline policy of the school or school district or taking

1 actions necessary to protect staff and students. Actions to protect staff and students
2 may be taken only after the principal makes a determination that the conduct of the
3 student reflected in the records of the school or obtained by the school from the
4 court indicates a substantial likelihood of an immediate and continuing threat that
5 the student will cause harm to students or staff, and that the restrictions to be
6 ordered represent the least restrictive alternative available and appropriate to
7 remedy the threat, and that the determination and supporting material be
8 documented in the child's record. The action of the principal, in addition to or in
9 lieu of any other procedure available, may be appealed by the child or the child's
10 parent or guardian to the superintendent of the school system or to the Circuit Court
11 in the county in which the school is located, and the appealing party may be
12 represented by counsel.

13 (2) Except as provided in KRS 610.345, no school, school administrator, teacher, or
14 other school employee who has custody of records received or maintained by the
15 school pursuant to KRS 610.345 or who has received information contained in or
16 relating to a record received by the school pursuant to KRS 610.345 shall disclose
17 the fact of the record's existence, or any information contained in the record or
18 received from the record to any other person, including but not limited to other
19 teachers, school employees, pupils, or parents other than the pupil, or parents of the
20 pupil who is the subject of the record.

21 (3) The child and his or her parent or guardian shall have a civil cause of action against
22 the school board and against any school administrator violating subsection (1) or (2)
23 of this section or divulging information in violation of KRS 610.345 or 610.340.
24 This civil cause of action shall be in addition to any other criminal or administrative
25 remedy provided by law.

26 (4) Nothing in this section shall be construed to prohibit a local board of education
27 from establishing districtwide standards of behavior for students who participate in

1 extracurricular and cocurricular activities, including athletics. A school principal
2 may deny or terminate a student's eligibility to participate in extracurricular or
3 cocurricular activities if the student has violated the local district behavior standards
4 or the council's criteria for participation, as described in KRS 160.345(2)(i)9.~~[8.]~~ A
5 student's right to participate in extracurricular or cocurricular activities, including
6 athletics, may be suspended, pending investigation of an allegation that the
7 standards of behavior have been violated.