

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; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

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

13           1. Exclusively vocational-technical, special education, or preschool programs;

15           2. Instructional programs operated in institutions or schools outside of the district; or

17           3. Alternative schools designed to provide services to at-risk populations with unique needs;

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

26       (2) Each local board of education shall adopt a policy for implementing school-based 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.[11.] 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.[11.] 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



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