

1 AN ACT relating to class sizes for exceptional children and youth.

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

3 ➔Section 1. KRS 157.220 is amended to read as follows:

4 (1) The Department of Education is hereby designated as the agency for cooperation  
5 with the state and federal government agencies, the nonpublic school programs and  
6 local schools of Kentucky in carrying out the provisions of KRS 157.200 to  
7 **157.290**~~[157.280]~~.

8 **(2)** The Kentucky Board of Education shall **promulgate**~~[make]~~ necessary  
9 **administrative**~~[rules and]~~ regulations in **accordance**~~[keeping]~~ with~~[the provisions~~  
10 ~~of]~~ KRS 157.200 to **157.290**~~[157.280 for their proper administration]~~, including but  
11 not limited to establishment of classes, eligibility and admission of pupils,~~[the]~~  
12 curriculum, class size **and caseload** limitations **in accordance with subsection (3)**  
13 **of this section**, housing, special equipment, and instructional supplies.

14 **(3) In providing special education services for the exceptional children and youth**  
15 **specified in subsection (3)(a) to (m) of Section 2 of this Act:**

16 **(a) The maximum class size for special classes for students with the following**  
17 **conditions shall be limited to:**

18 **1. Eight (8) students with autism;**

19 **2. Ten (10) students with a developmental delay;**

20 **3. Eight (8) students with an emotional-behavioral disability;**

21 **4. Ten (10) students with a functional mental disability;**

22 **5. Six (6) students with a hearing impairment;**

23 **6. Fifteen (15) students with a mild mental disability;**

24 **7. Ten (10) students with multiple disabilities;**

25 **8. Sixteen (16) students with an orthopedic impairment;**

26 **9. Sixteen (16) students with an other health impairment;**

27 **10. Ten (10) students in kindergarten to grade five (5) and fifteen (15)**

- 1                   students in grades six (6) to twelve (12) with a specific learning  
2                   disability; and
- 3                   11. Ten (10) students with a visual disability;
- 4                   (b) The maximum caseloads for teachers of special classes shall be as follows:
- 5                   1. Fifteen (15) students with autism;  
6                   2. Fifteen (15) students with a developmental delay;  
7                   3. Fifteen (15) students with an emotional-behavioral disability;  
8                   4. Ten (10) students with a functional mental disability;  
9                   5. Eight (8) students with a hearing impairment;  
10                  6. Fifteen (15) students in kindergarten to grade five (5) and twenty (20)  
11                  students in grades six (6) to twelve (12) with a mild mental disability;  
12                  7. Ten (10) students with multiple disabilities;  
13                  8. Twenty (20) students with an orthopedic impairment;  
14                  9. Twenty (20) students with an other health impairment;  
15                  10. Fifteen (15) students in kindergarten to grade five (5) and twenty (20)  
16                  students in grades six (6) to twelve (12) with a specific learning  
17                  disability; and
- 18                  11. Ten (10) students with a visual disability;
- 19                  (c) For speech-language pathologists the caseload limitations in KRS 334A.190  
20                  shall apply;
- 21                  (d) Special classes containing more than one (1) disability category shall use  
22                  the category of the majority of students in the class to determine the  
23                  maximum class size established in paragraph (a) of this subsection;
- 24                  (e) Two (2) students above the maximum class size established in paragraph (a)  
25                  of this subsection may be added to a class if a paraprofessional is present;
- 26                  (f) If a teacher of exceptional children and youth provides services through the  
27                  collaborative model, the maximum caseload shall not exceed twenty (20)

1           students in grades six (6) to twelve (12) and fifteen (15) students in  
 2           kindergarten to grade five (5);

3           (g) If a teacher of exceptional children provides services through a  
 4           combination of collaboration and special classes, the maximum caseload  
 5           shall not exceed those established in paragraph (b) of this subsection;

6           (h) Teachers of special classes who are assigned student records of more than  
 7           one (1) disability category shall use the category of the majority of students  
 8           on the caseload to determine the maximum caseload established in  
 9           paragraph (b) of this subsection; and

10          (i) State preschool caseload and class size maximums shall be maintained  
 11          pursuant to Section 4 of this Act.

12          ~~(4)(2)~~ The Department of Education is authorized to receive contributions and  
 13          donations that may be made to carry out ~~the provisions and requirements of~~ KRS  
 14          157.200 to 157.290~~[157.280]~~.

15          ~~(5)(3)~~ Local supervision of special educational facilities for exceptional children and  
 16          youth shall be approved by the Department of Education according to  
 17          administrative~~[rules and]~~ regulations promulgated~~[approved]~~ by the Kentucky  
 18          Board of Education.

19          ➔Section 2. KRS 157.200 is amended to read as follows:

20          As used in KRS 157.200 to 157.290:

21          (1) "Admissions and release committee" or "ARC" means a group of individuals  
 22          that is responsible for developing, reviewing, or revising an individualized  
 23          education program for an exceptional child or youth;

24          (2) "Caseload" means the number of exceptional children and youth assigned to a  
 25          teacher of exceptional children and youth for the purpose of overseeing the  
 26          management of individualized specially designed instruction and related services  
 27          as required by the individualized education program;

1 **(3)** "Exceptional children and youth" means persons under twenty-one (21) years of  
2 age who differ in one (1) or more respects from same-age peers in physical, mental,  
3 learning, emotional, or social characteristics and abilities to such a degree that they  
4 need special educational programs or services for them to benefit from the regular  
5 or usual facilities or educational programs of the public schools in the districts in  
6 which they reside. The Department of Education, through administrative  
7 regulations promulgated by the Kentucky Board of Education, shall interpret the  
8 statutory definitions of exceptionality. An exceptionality is any trait so defined in  
9 this section or by administrative regulations promulgated by the Kentucky Board of  
10 Education. Requirements of average daily attendance for exceptional classes shall  
11 be regulated by statute, or in the absence of direction by administrative regulations  
12 promulgated by the Kentucky Board of Education. Categories of exceptionalities  
13 included within, but not limited by, this definition are as follows:

14 (a) "Orthopedic impairment" means a severe physical impairment of bone or  
15 muscle which adversely affects educational performance to the extent that  
16 specially designed instruction is required for the pupil to benefit from  
17 education. The term includes physical impairments caused by congenital  
18 anomaly, disease, and from other causes;

19 (b) "Other health ~~impairment~~~~impaired~~" means limited strength, vitality, or  
20 alertness, including a heightened alertness to environmental stimuli, due to a  
21 chronic or acute health problem which adversely affects educational  
22 performance to the extent that specially designed instruction is required for  
23 the pupil to benefit from education. Chronic health problems may include, but  
24 are not be limited to, a heart condition, tuberculosis, sickle cell anemia,  
25 hemophilia, epilepsy, rheumatic fever, nephritis, asthma, lead poisoning,  
26 leukemia, diabetes, attention deficit disorder, attention deficit hyperactive  
27 disorder, or acquired immune deficiency syndrome;

1 (c) "Speech or language impairment" means a communication disorder such as  
2 stuttering, impaired articulation, impaired language, impaired voice, delayed  
3 acquisition of language, or absence of language that adversely affects  
4 educational performance to the extent that specially designed instruction is  
5 required for the pupil to benefit from education;

6 (d) "Hearing impairment" means a physiological hearing loss:

- 7 1. Ranging from mild to profound, which is either permanent or  
8 fluctuating, and of such a degree that the pupil is impaired in the  
9 processing of linguistic information via the auditory channel either with  
10 or without amplification; or
- 11 2. That adversely affects educational performance so that specially  
12 designed instruction is required for the child or youth to benefit from  
13 education.

14 The term shall include both deaf and hard of hearing children;

15 (e) "Mental disability" means a deficit or delay in intellectual and adaptive  
16 behavior functioning, which adversely affects educational performance to the  
17 extent that specially designed instruction is required for the pupil to benefit  
18 from education, and which is typically manifested during the developmental  
19 period;

20 (f) "Specific learning disability" means a disorder in one (1) or more of the  
21 psychological processes primarily involved in understanding or using spoken  
22 or written language, which selectively and significantly interferes with the  
23 acquisition, integration, or application of listening, speaking, reading, writing,  
24 reasoning, or mathematical abilities. "Specific learning disability" may  
25 include conditions such as dyslexia, dyscalculia, dysgraphia, developmental  
26 aphasia, or perceptual motor disabilities. The disorder is lifelong, intrinsic to  
27 the individual, and adversely affects educational performance to the extent

1 that specially designed instruction is required in order for the pupil to benefit  
2 from education. Determination of the existence of a specific learning  
3 disability shall include documentation that a child does not make sufficient  
4 progress in meeting age or grade-level content standards when provided with  
5 appropriate instruction and learning experiences delivered by qualified  
6 personnel, including the child's response to scientific, research-based  
7 interventions and additional information derived from an individual  
8 evaluation. The term does not include a learning problem which is primarily  
9 the result of:

- 10 1. A hearing impairment;
- 11 2. Visual, physical, mental, or emotional-behavioral disabilities;
- 12 3. Environmental, cultural, or economic differences; or
- 13 4. Limited English proficiency;

14 (g) "Emotional-behavioral disability" means a condition characterized by  
15 behavioral excess or deficit which significantly interferes with a pupil's  
16 interpersonal relationships or learning process to the extent that it adversely  
17 affects educational performance so that specially designed instruction is  
18 required in order for the pupil to benefit from education;

19 (h) "Multiple disability" means a combination of two (2) or more disabilities  
20 resulting in significant learning, developmental, or behavioral and emotional  
21 problems, which adversely affects educational performance and, therefore,  
22 requires specially designed instruction in order for the pupil to benefit from  
23 education. A pupil is not considered to have a multiple disability if the  
24 adverse effect on educational performance is solely the result of deaf-  
25 blindness or the result of speech or language disability and one (1) other  
26 disabling condition;

27 (i) "Deaf-blind" means auditory and visual impairments, the combination of

1           which creates such severe communication and other developmental and  
2           learning needs that the pupil cannot be appropriately educated in special  
3           education programs designed solely for pupils with hearing impairments,  
4           visual impairments, or severe disabilities, unless supplementary assistance is  
5           provided to address educational needs resulting from the two (2) disabilities;

6           (j) "Visually disabled" means a visual impairment, which, even with correction,  
7           adversely affects educational performance to the extent that specially  
8           designed instruction is required for the pupil to benefit from education. The  
9           term includes both partially seeing and blind pupils;

10          (k) "Developmental delay" means a significant discrepancy between a child's  
11          current level of performance in basic skills such as cognition, language or  
12          communication, self-help, social-emotional, or fine or gross motor, and the  
13          expected level of performance for that age. The term shall be used only with  
14          children ages three (3) through eight (8);

15          (l) "Traumatic brain injury" means an acquired impairment to the neurological  
16          system resulting from an insult to the brain which adversely affects  
17          educational performance and causes temporary or permanent and partial or  
18          complete loss of:

- 19           1. Cognitive functioning;
- 20           2. Physical ability; or
- 21           3. Communication or social-behavioral interaction.

22           The term does not include a brain injury that is congenital or degenerative, or  
23           a brain injury induced by birth trauma;

24          (m) "Autism" means a developmental disability significantly affecting verbal and  
25          nonverbal communication and social interaction, generally evident before age  
26          three (3), that adversely affects educational performance. Characteristics of  
27          autism include:

- 1 1. Engagement in repetitive activity and stereotyped movement;
- 2 2. Resistance to environmental change or change in daily routine; and
- 3 3. Unusual responses to sensory experience.

4 The term does not include children with characteristics of an emotional-  
5 behavioral disability; and

6 (n) "Gifted and talented student" means a pupil identified as possessing  
7 demonstrated or potential ability to perform at an exceptionally high level in  
8 general intellectual aptitude, specific academic aptitude, creative or divergent  
9 thinking, psychosocial or leadership skills, or in the visual or performing  
10 arts;[-]

11 ~~(2) "Special education" means specially designed instruction to meet the unique needs~~  
12 ~~of an exceptional child or youth.~~

13 ~~(3) "Special educational facilities" means physical facilities designed or adapted to~~  
14 ~~meet the needs of exceptional children and youth, and approved according to~~  
15 ~~regulations promulgated by the Kentucky Board of Education.]~~

16 (4) "Related services" means transportation and the developmental, corrective, and  
17 other supportive services required to assist an exceptional child or youth to benefit  
18 from special education, and may include, but are not limited to, speech-language  
19 pathology and audiology services; psychological services; physical and  
20 occupational therapy; recreation, including therapeutic recreation; early  
21 identification and assessment of disabilities; counseling services, including  
22 rehabilitation counseling; orientation and mobility services; medical services for  
23 diagnostic or evaluation purposes; school health services; social work services in  
24 schools; and parent counseling and training;[-]

25 **(5) "Special classes" means specially equipped and staffed classes in which an**  
26 **exceptional child or youth, individually or in small groups, spends part of his or**  
27 **her day receiving specially designed instruction or related services as determined**

1 by the ARC;

2 (6) "Special education" means specially designed instruction to meet the unique  
 3 needs of an exceptional child or youth;

4 (7) "Special educational facilities" means physical facilities designed or adapted to  
 5 meet the needs of exceptional children and youth, and approved according to  
 6 administrative regulations promulgated by the Kentucky Board of Education; and

7 (8)~~(5)~~ "Transition services" means a coordinated set of activities for a pupil designed  
 8 within an outcome-oriented process, that promotes movement from school to  
 9 postschool activities. The term includes:

10 (a) Postsecondary education;

11 (b) Vocational training; and

12 (c) Integrated employment, including supported employment, continuing and  
 13 adult education, adult services, independent living, or community  
 14 participation.

15 The coordinated set of activities shall be based on the individual pupil's needs,  
 16 taking into account the pupil's preferences and interests, and shall include  
 17 instruction, community experience, the development of employment, and other  
 18 postschool adult living objectives, and, if appropriate, acquisition of daily living  
 19 skills and functional vocational evaluation.

20 ➔Section 3. KRS 157.230 is amended to read as follows:

21 School boards of any school district subject to ~~the provisions of~~ KRS 157.200 to  
 22 157.290~~157.280~~, shall establish and maintain special educational programs for  
 23 exceptional children and youth who are residents of their school district, or contract for  
 24 programs as may be authorized by KRS 157.280.

25 ➔Section 4. KRS 157.3175 is amended to read as follows:

26 (1) Each local school district shall ensure that a developmentally appropriate half-day  
 27 preschool education program is provided for each child who is at risk of educational

1 failure and who is four (4) years of age[;

2 ~~(a) By October 1, for any year prior to 2017; or~~

3 ~~(b) ] by August 1[, for 2017 or any year thereafter].~~

4 All other four (4) year old children shall be served to the extent placements are  
5 available. The Kentucky Board of Education, upon the recommendation of the chief  
6 state school officer, shall adopt administrative regulations establishing the  
7 guidelines for the program. Administrative regulations shall establish eligibility  
8 criteria, program guidelines, and standards for personnel.

9 (2) "Developmentally appropriate preschool program" means a program which focuses  
10 on the physical, intellectual, social, and emotional development of young children.  
11 The preschool program shall help children with their interpersonal and socialization  
12 skills.

13 (3) Funds appropriated by the General Assembly for the preschool education programs  
14 shall be granted to local school districts according to a grant allotment system  
15 approved by the Kentucky Board of Education. Children who are at risk shall be  
16 identified based on the Federal School Lunch Program eligibility criteria for free  
17 lunch. Appropriations shall be separate from all other funds appropriated to the  
18 Department of Education and shall be administered in accordance with applicable  
19 federal and state statutes and administrative regulations. Eligible local school  
20 districts shall receive funds based on the average number of preschool children  
21 being served on December 1 and March 1 of the prior academic year who are  
22 appropriately identified as:

23 (a) Three (3) and four (4) years of age with disabilities; and

24 (b) Four (4) years of age identified as at risk of educational failure.

25 Local school districts may develop cooperative arrangements with other school  
26 districts or organizations in accordance with KRS 157.280.

27 (4) A child shall be eligible for a free and appropriate preschool education and related

1 services if:

2 (a) 1. The child has been identified as a child with a disability in accordance  
3 with the Individuals with Disabilities Education Act, 20 U.S.C.  
4 sec.~~[secs.]~~ 1400 et seq.; or

5 2. The child has been identified in accordance with the definitions and  
6 procedures for exceptional children and youth in accordance with KRS  
7 157.200~~(3)~~~~(4)~~(a) to (m); and

8 (b) The child is three (3) or four (4) years of age~~;~~

9 ~~1. By October 1, for any year before 2017; or~~

10 ~~2. by August 1, for 2017 or any year thereafter].~~

11 (5) The chief state school officer shall receive and review proposals from local school  
12 districts for grants to operate or oversee the operation of developmentally  
13 appropriate preschool education programs. Districts may submit proposals for  
14 implementing new services, enhancing existing preschool education services, or  
15 contracting for services. In designing a local early childhood education program,  
16 each district shall work with existing preschool programs to avoid duplication of  
17 programs and services, to avoid supplanting federal funds, and to maximize Head  
18 Start funds in order to serve as many four (4) year old children as possible.

19 (6) Each program proposal shall include, at a minimum:

20 (a) A description of the process conducted by the district to ensure that the  
21 parents or guardians of all eligible participants have been made aware of the  
22 program and of their right to participate;

23 (b) A description of the planned educational programming and related services;

24 (c) The estimated number of children participating in the program;

25 (d) Strategies for involving children with disabilities;

26 (e) Estimated ratio of staff to children with the maximum being one (1) adult for  
27 each ten (10) children;

- 1 (f) The estimated percentage of children participating in the program who are at  
2 risk of educational failure;
- 3 (g) Information on the training and qualifications of program staff and  
4 documentation that the staff meet required standards;
- 5 (h) A budget and per-child expenditure estimate;
- 6 (i) A plan to facilitate active parental involvement in the preschool program,  
7 including provisions for complementary parent education when appropriate;
- 8 (j) Facilities and equipment which are appropriate for young children;
- 9 (k) The days of the week and hours of a day during which the program shall  
10 operate;
- 11 (l) A plan for coordinating the program with existing medical and social services,  
12 including a child development and health screening component;
- 13 (m) Assurances that participants shall receive breakfast or lunch;
- 14 (n) Program sites which meet state and local licensure requirements;
- 15 (o) A plan for coordinating program philosophy and activities with the local  
16 district's primary school program;
- 17 (p) An evaluation component; and
- 18 (q) Certification from the local Head Start director that the Head Start program is  
19 fully utilized pursuant to subsection (4) of this section.
- 20 (7) If the superintendent and local Head Start director are unable to reach an agreement  
21 on whether a Head Start program is fully utilized, the superintendent or local Head  
22 Start director shall notify the chief state school officer. The local Head Start director  
23 shall provide the chief state school officer all information relevant to the utilization  
24 of the Head Start program. Within thirty (30) days of notification from the  
25 superintendent or local Head Start director, the chief state school officer shall make  
26 a determination of whether a Head Start program is fully utilized and may execute  
27 the certification required by subsection (6)(q) of this section on behalf of the local

1 Head Start director.

2 (8) Programs shall reflect an equitable geographic distribution representative of all  
3 areas of the Commonwealth.

4 ➔Section 5. KRS 159.990 is amended to read as follows:

5 (1) Any parent, guardian, or custodian who intentionally fails to comply with the  
6 requirements of KRS 159.010 to 159.170, except as provided in subsection (5) of  
7 this section, shall be fined one hundred dollars (\$100) for the first offense, and two  
8 hundred fifty dollars (\$250) for the second offense. Each subsequent offense shall  
9 be classified as a Class B misdemeanor. A new offense shall not be constituted until  
10 any previous offense has been finally adjudicated. The court trying the case may  
11 suspend enforcement of the fine if the child is immediately placed in attendance at a  
12 school, and may finally remit the fine if the attendance continues regularly for the  
13 full school term. School attendance may be proved by an attested certificate of the  
14 principal or teacher in charge of the school.

15 (2) Any principal, teacher, director of pupil personnel, assistant director of pupil  
16 personnel, or other school officer who intentionally fails to comply with the  
17 provisions of KRS 159.010 to 159.250, or of KRS 160.330 shall be fined not less  
18 than twenty-five dollars (\$25) nor more than fifty dollars (\$50). Upon conviction  
19 under this subsection, a director of pupil personnel or assistant director of pupil  
20 personnel shall be removed from office and have his certificate revoked, and a  
21 principal, teacher, or other school officer may have his certificate revoked.

22 (3) Any person, other than those persons mentioned in subsections (1) and (2) of this  
23 section, who fails to comply with any of the provisions of this chapter relating to  
24 compulsory attendance, or who violates any of the provisions of KRS 159.130,  
25 shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars  
26 (\$200), or imprisoned in the county jail for not more than sixty (60) days, or both.

27 (4) Any person who violates any of the provisions of KRS 159.270 shall be liable to a

1 fine of not less than fifty dollars (\$50) and shall be liable to the punishment  
2 prescribed by law for the crime of false swearing. If he is an officer, he shall be  
3 removed from office; and if he is a director of pupil personnel, his certificate shall  
4 be revoked.

5 (5) Any of the following who intentionally fails to comply with the requirements of  
6 KRS 159.150 shall be fined one hundred dollars (\$100) for the first offense and two  
7 hundred fifty dollars (\$250) for each subsequent offense:

8 (a) A student enrolled in a public school who has attained the age of eighteen (18)  
9 years, but who has not yet reached his or her twenty-first birthday, for whom a  
10 guardian has not been appointed by a court of competent jurisdiction, whether  
11 or not that student is identified as an exceptional child or youth under KRS  
12 157.200~~(3)(1)~~(a) to (m);

13 (b) A parent, guardian, or custodian of a student enrolled in a public school who  
14 has not reached his or her eighteenth birthday; or

15 (c) A guardian appointed by a court of competent jurisdiction of a student who is  
16 enrolled in a public school, has been identified as an exceptional child or  
17 youth under KRS 157.200~~(3)(1)~~(a) to (m), and has attained the age of  
18 eighteen (18) years, but who has not yet reached his or her twenty-first  
19 birthday.

20 Any person described in paragraph (a), (b), or (c) of this subsection shall be  
21 informed by personnel of the local school district that a public school student who  
22 has not reached his or her twenty-first birthday shall be subject to truancy laws.

23 (6) All fines imposed and all sums required to be paid as penalties under this section  
24 shall, after payment of the costs of prosecution and recovery thereof, be paid into  
25 the treasury of the district board of education and become a part of the school fund  
26 of the district.