

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; and

6                   (h) State preschool caseload and class size maximums shall be maintained  
7                   pursuant to Section 4 of this Act.

8                   (4) (2) The Department of Education is authorized to receive contributions and  
9                   donations that may be made to carry out the provisions and requirements of KRS  
10                   157.200 to 157.290 (157.280).

11                   (5) (3) Local supervision of special educational facilities for exceptional children and  
12                   youth shall be approved by the Department of Education according to  
13                   administrative rules and regulations promulgated approved by the Kentucky  
14                   Board of Education.

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

16                   As used in KRS 157.200 to 157.290:

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

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

24                   (3) "Exceptional children and youth" means persons under twenty-one (21) years of  
25                   age who differ in one (1) or more respects from same-age peers in physical, mental,  
26                   learning, emotional, or social characteristics and abilities to such a degree that they  
27                   need special educational programs or services for them to benefit from the regular

1 or usual facilities or educational programs of the public schools in the districts in  
2 which they reside. The Department of Education, through administrative  
3 regulations promulgated by the Kentucky Board of Education, shall interpret the  
4 statutory definitions of exceptionality. An exceptionality is any trait so defined in  
5 this section or by administrative regulations promulgated by the Kentucky Board of  
6 Education. Requirements of average daily attendance for exceptional classes shall  
7 be regulated by statute, or in the absence of direction by administrative regulations  
8 promulgated by the Kentucky Board of Education. Categories of exceptionailities  
9 included within, but not limited by, this definition are as follows:

- 10 (a) "Orthopedic impairment" means a severe physical impairment of bone or  
11 muscle which adversely affects educational performance to the extent that  
12 specially designed instruction is required for the pupil to benefit from  
13 education. The term includes physical impairments caused by congenital  
14 anomaly, disease, and from other causes;
- 15 (b) "Other health impairment~~[impaired]~~" means limited strength, vitality, or  
16 alertness, including a heightened alertness to environmental stimuli, due to a  
17 chronic or acute health problem which adversely affects educational  
18 performance to the extent that specially designed instruction is required for  
19 the pupil to benefit from education. Chronic health problems may include, but  
20 are not be limited to, a heart condition, tuberculosis, sickle cell anemia,  
21 hemophilia, epilepsy, rheumatic fever, nephritis, asthma, lead poisoning,  
22 leukemia, diabetes, attention deficit disorder, attention deficit hyperactive  
23 disorder, or acquired immune deficiency syndrome;
- 24 (c) "Speech or language impairment" means a communication disorder such as  
25 stuttering, impaired articulation, impaired language, impaired voice, delayed  
26 acquisition of language, or absence of language that adversely affects  
27 educational performance to the extent that specially designed instruction is

1 required for the pupil to benefit from education;

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

3           1. Ranging from mild to profound, which is either permanent or  
4           fluctuating, and of such a degree that the pupil is impaired in the  
5           processing of linguistic information via the auditory channel either with  
6           or without amplification; or

7           2. That adversely affects educational performance so that specially  
8           designed instruction is required for the child or youth to benefit from  
9           education.

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

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

16 (f) "Specific learning disability" means a disorder in one (1) or more of the  
17 psychological processes primarily involved in understanding or using spoken  
18 or written language, which selectively and significantly interferes with the  
19 acquisition, integration, or application of listening, speaking, reading, writing,  
20 reasoning, or mathematical abilities. "Specific learning disability" may  
21 include conditions such as dyslexia, dyscalculia, dysgraphia, developmental  
22 aphasia, or perceptual motor disabilities. The disorder is lifelong, intrinsic to  
23 the individual, and adversely affects educational performance to the extent  
24 that specially designed instruction is required in order for the pupil to benefit  
25 from education. Determination of the existence of a specific learning  
26 disability shall include documentation that a child does not make sufficient  
27 progress in meeting age or grade-level content standards when provided with

1                   appropriate instruction and learning experiences delivered by qualified  
2                   personnel, including the child's response to scientific, research-based  
3                   interventions and additional information derived from an individual  
4                   evaluation. The term does not include a learning problem which is primarily  
5                   the result of:

6                   1. A hearing impairment;  
7                   2. Visual, physical, mental, or emotional-behavioral disabilities;  
8                   3. Environmental, cultural, or economic differences; or  
9                   4. Limited English proficiency;

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

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

23                   (i) "Deaf-blind" means auditory and visual impairments, the combination of  
24                   which creates such severe communication and other developmental and  
25                   learning needs that the pupil cannot be appropriately educated in special  
26                   education programs designed solely for pupils with hearing impairments,  
27                   visual impairments, or severe disabilities, unless supplementary assistance is

1 provided to address educational needs resulting from the two (2) disabilities;

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

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

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

15                   1. Cognitive functioning;

16                   2. Physical ability; or

17                   3. Communication or social-behavioral interaction.

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

24           1. Engagement in repetitive activity and stereotyped movement;

25           2. Resistance to environmental change or change in daily routine; and

26           3. Unusual responses to sensory experience.

27 The term does not include children with characteristics of an emotional-

1 behavioral disability; and

2 (n) "Gifted and talented student" means a pupil identified as possessing  
3 demonstrated or potential ability to perform at an exceptionally high level in  
4 general intellectual aptitude, specific academic aptitude, creative or divergent  
5 thinking, psychosocial or leadership skills, or in the visual or performing  
6 arts; f.

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

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

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

21     (5) "Special classes" means specially equipped and staffed classes in which an  
22         exceptional child or youth, individually or in small groups, spends part of his or  
23         her day receiving specially designed instruction or related services as determined  
24         by the ARC;

25 (6) "Special education" means specially designed instruction to meet the unique  
26 needs of an exceptional child or youth:

27 (7) "Special educational facilities" means physical facilities designed or adapted to

1        meet the needs of exceptional children and youth, and approved according to  
2        administrative regulations promulgated by the Kentucky Board of Education; and

3        (8) [5] "Transition services" means a coordinated set of activities for a pupil designed  
4        within an outcome-oriented process, that promotes movement from school to  
5        postschool activities. The term includes:

6        (a) Postsecondary education;  
7        (b) Vocational training; and  
8        (c) Integrated employment, including supported employment, continuing and  
9        adult education, adult services, independent living, or community  
10      participation.

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

16      ➤Section 3. KRS 157.230 is amended to read as follows:

17      School boards of any school district subject to [the provisions of] KRS 157.200 to  
18      157.290 [157.280], shall establish and maintain special educational programs for  
19      exceptional children and youth who are residents of their school district, or contract for  
20      programs as may be authorized by KRS 157.280.

21      ➤Section 4. KRS 157.3175 is amended to read as follows:

22      (1) Each local school district shall ensure that a developmentally appropriate half-day  
23      preschool education program is provided for each child who is at risk of educational  
24      failure and who is four (4) years of age:  
25      (a) ~~By October 1, for any year prior to 2017; or~~  
26      (b) } by August 1 [for 2017 or any year thereafter].

27      All other four (4) year old children shall be served to the extent placements are

1 available. The Kentucky Board of Education, upon the recommendation of the chief  
2 state school officer, shall adopt administrative regulations establishing the  
3 guidelines for the program. Administrative regulations shall establish eligibility  
4 criteria, program guidelines, and standards for personnel.

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

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

19 (a) Three (3) and four (4) years of age with disabilities; and  
20 (b) Four (4) years of age identified as at risk of educational failure.

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

23 (4) A child shall be eligible for a free and appropriate preschool education and related  
24 services if:

25 (a) 1. The child has been identified as a child with a disability in accordance  
26 with the Individuals with Disabilities Education Act, 20 U.S.C.  
27 sec.{sees.} 1400 et seq.; or

- 1                   2. The child has been identified in accordance with the definitions and
- 2                   procedures for exceptional children and youth in accordance with KRS
- 3                   157.200(3)(4)(a) to (m); and
- 4                   (b) The child is three (3) or four (4) years of age:
  - 5                   1. ~~By October 1, for any year before 2017; or~~
  - 6                   2. ~~by August 1, for 2017 or any year thereafter.~~
- 7                   (5) The chief state school officer shall receive and review proposals from local school
- 8                   districts for grants to operate or oversee the operation of developmentally
- 9                   appropriate preschool education programs. Districts may submit proposals for
- 10                  implementing new services, enhancing existing preschool education services, or
- 11                  contracting for services. In designing a local early childhood education program,
- 12                  each district shall work with existing preschool programs to avoid duplication of
- 13                  programs and services, to avoid supplanting federal funds, and to maximize Head
- 14                  Start funds in order to serve as many four (4) year old children as possible.
- 15                  (6) Each program proposal shall include, at a minimum:
  - 16                   (a) A description of the process conducted by the district to ensure that the
  - 17                   parents or guardians of all eligible participants have been made aware of the
  - 18                   program and of their right to participate;
  - 19                   (b) A description of the planned educational programming and related services;
  - 20                   (c) The estimated number of children participating in the program;
  - 21                   (d) Strategies for involving children with disabilities;
  - 22                   (e) Estimated ratio of staff to children with the maximum being one (1) adult for
  - 23                   each ten (10) children;
  - 24                   (f) The estimated percentage of children participating in the program who are at
  - 25                   risk of educational failure;
  - 26                   (g) Information on the training and qualifications of program staff and
  - 27                   documentation that the staff meet required standards;



- 1       (1) Any parent, guardian, or custodian who intentionally fails to comply with the  
2       requirements of KRS 159.010 to 159.170, except as provided in subsection (5) of  
3       this section, shall be fined one hundred dollars (\$100) for the first offense, and two  
4       hundred fifty dollars (\$250) for the second offense. Each subsequent offense shall  
5       be classified as a Class B misdemeanor. A new offense shall not be constituted until  
6       any previous offense has been finally adjudicated. The court trying the case may  
7       suspend enforcement of the fine if the child is immediately placed in attendance at a  
8       school, and may finally remit the fine if the attendance continues regularly for the  
9       full school term. School attendance may be proved by an attested certificate of the  
10      principal or teacher in charge of the school.
- 11      (2) Any principal, teacher, director of pupil personnel, assistant director of pupil  
12      personnel, or other school officer who intentionally fails to comply with the  
13      provisions of KRS 159.010 to 159.250, or of KRS 160.330 shall be fined not less  
14      than twenty-five dollars (\$25) nor more than fifty dollars (\$50). Upon conviction  
15      under this subsection, a director of pupil personnel or assistant director of pupil  
16      personnel shall be removed from office and have his certificate revoked, and a  
17      principal, teacher, or other school officer may have his certificate revoked.
- 18      (3) Any person, other than those persons mentioned in subsections (1) and (2) of this  
19      section, who fails to comply with any of the provisions of this chapter relating to  
20      compulsory attendance, or who violates any of the provisions of KRS 159.130,  
21      shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars  
22      (\$200), or imprisoned in the county jail for not more than sixty (60) days, or both.
- 23      (4) Any person who violates any of the provisions of KRS 159.270 shall be liable to a  
24      fine of not less than fifty dollars (\$50) and shall be liable to the punishment  
25      prescribed by law for the crime of false swearing. If he is an officer, he shall be  
26      removed from office; and if he is a director of pupil personnel, his certificate shall  
27      be revoked.

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

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

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

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

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

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