

1 AN ACT relating to schools and declaring an emergency.

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

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

4 (1) As used in this section:

5 (a) **"Commercial, nonprofit, or local government affiliation" means:**

6 **1. Having an ownership interest in, being employed by, or being a**
 7 **customer or client of a commercial business or activity;**

8 **2. An association with a nonprofit religious organization, organization**
 9 **recognized as a patriotic or national organization in 36 U.S.C. sec.**
 10 **20101 et seq., or other nonprofit organization granted a tax exemption**
 11 **by the Internal Revenue Service under Section 501(c) of the Internal**
 12 **Revenue Code; or**

13 **3. An association with a city, county, consolidated local government,**
 14 **urban-county government, charter county government, or unified**
 15 **local government;**

16 (b) "Family member" means:

17 **1. A parent, brother, sister, son, daughter, aunt, uncle, cousin, nephew,**
 18 **niece, or grandparent related to the student by consanguinity, affinity,**
 19 **or adoption; or**

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

21 (c) ~~(b)~~ "Parent" means a parent, legal guardian, **a person acting as a parent in**
 22 **the absence of a parent or guardian,** or other **individual**~~person~~ or agency
 23 responsible for ~~the~~^a student;

24 (d) **"Private electronic communication" means electronic communication that**
 25 **involves direct one-on-one or group conversations that are only accessible**
 26 **to the participants;**

27 (e) **"Qualified school volunteer" means an adult who:**

- 1 **1. Is not:**
- 2 **a. A school district employee; or**
- 3 **b. Enrolled in the school district; and**
- 4 **2. Has served the school or school district at any point during the current**
- 5 **school year:**
- 6 **a. As a student teacher, a nonfaculty coach or assistant coach, a**
- 7 **nonfaculty sponsor of an extracurricular program or activity, or**
- 8 **a school-sponsored academic tutor; or**
- 9 **b. In a nonfaculty student services role designated as a qualified**
- 10 **school volunteer by the local board of education;**

11 ~~(f)(e)~~ "School district employee~~[-or volunteer]~~";

- 12 **1.** Means a school administrator, classified **employee**,~~[-or]~~ certified
- 13 employee~~[-of a school district, school volunteer]~~, **contractor hired by**
- 14 **the district to provide direct services to students, or compensated**
- 15 nonfaculty coach or assistant coach;
- 16 **2. Includes any Kentucky Department of Education or educational**
- 17 **cooperative employee who is assigned to a school or area technology**
- 18 **center within the school district on a full-time basis and granted**
- 19 **official access as a user of the traceable communication system**,~~[-~~
- 20 ~~student teacher, or sponsor of an extracurricular program or activity];~~
- 21 **and**
- 22 **3. Does not include any student enrolled in the district;**

23 ~~(g)(d)~~ "Traceable communication system" means one (1) or more electronic

24 school notification and communication programs or applications that:

- 25 1. Are designated by a local board of education in accordance with
- 26 subsection (2) of this section;
- 27 2. Trace all communications sent to or by a student; and

1 3. Provide parents an opportunity to access and review those
2 communications; and

3 ~~(h)(e)~~ "Unauthorized electronic communication":

4 1. Means private~~[an]~~ electronic communication with a student enrolled in
5 a school district by the~~[a]~~ school district's~~[district]~~ employee or
6 qualified school volunteer who is not the student's family member that
7 occurs outside of a designated traceable communication system and
8 without prior written parental consent;~~[and]~~

9 2. Includes any private electronic communication with a student or
10 students enrolled in the school district through a personal email
11 account, text messaging, social media, or other private electronic
12 ~~[notification and]~~communication program~~[programs]~~ outside of the
13 traceable communication system; and~~[.]~~

14 3. Does not include:

15 a. Virtual school instruction, including nontraditional instruction,
16 online course instruction, and home-health instruction;

17 b. Academic feedback mechanisms;

18 c. Electronic translation services;

19 d. Electronic communication with any telephone number provided
20 by a parent for the purpose of school communication with that
21 parent;

22 e. Electronic communication in which a parent of the student is
23 included as a recipient or participant;

24 f. Electronic communication between two (2) or more school
25 district employees or qualified school volunteers and one (1) or
26 more students that is in direct relation to an academic, athletic,
27 or extracurricular purpose;

- 1 **g. Electronic communication between a school-based mental health**
 2 **services provider, as defined in KRS 158.4416, at least one (1)**
 3 **other school district employee, and a student that is in direct**
 4 **relation to the health, safety, or well-being of a student;**
- 5 **h. Voice communication on an official telephone number affiliated**
 6 **with the school or school district;**
- 7 **i. Social media posts and comments that are not private electronic**
 8 **communication;**
- 9 **j. Electronic communication related to commercial products or**
 10 **services with a telephone number, email address, or other**
 11 **electronic account affiliated with a lawful commercial business;**
 12 **or**
- 13 **k. Secure messaging for healthcare providers.**

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

23 (3) (a) ~~[Except as provided in subsections (4) and (5) of this section,]~~A school
 24 district employee or **qualified school** volunteer shall not **engage in**
 25 **unauthorized electronic communication**~~[communicate electronically with a~~
 26 ~~student:~~

27 1. ~~Outside of the traceable communication system designated by the local~~

1 ~~board of education; or~~

2 ~~2. Through an unauthorized electronic communication program or~~
3 ~~application.~~

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

6 1. For certified employees, KRS 161.120 and 161.790; or

7 2. For classified employees, KRS 161.011(7).

8 (c) A ***qualified*** school volunteer that violates paragraph (a) of this subsection
9 may~~shall~~ be prohibited ***by the school district*** from future school volunteer
10 opportunities.

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

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

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

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

25 ***(d)***~~(c)~~ May be revoked by ***the***~~a~~ parent ***who filed the consent*** at any time.
26 ***Upon notice of a revocation, the administrative office shall promptly notify***
27 ***the school district and each school district employee and qualified school***

1 **volunteer subject to the revocation;**

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

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

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

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

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

24 **(a)** Between a student and his or her family member who is a school district
25 employee or **qualified school** volunteer;

26 **(b) Between a student and a school district employee or qualified school**
27 **volunteer who reasonably believes an emergency exists that creates an**

1 imminent risk to any person or property, provided the school district
2 employee promptly discloses the private electronic communication to his or
3 her immediate supervisor after the fact in accordance with subsection (7) of
4 this section;

5 (c) During and in direct relation to a school-sanctioned field trip the student
6 has parental consent to attend;

7 (d) During and in direct relation to work-based learning experiences; or

8 (e) That are directly related to a commercial, nonprofit, or local government
9 affiliation that has been previously disclosed in accordance with subsection
10 (6) of this section.

11 (6) A school district employee or qualified school volunteer may submit a written
12 disclosure notifying the school district of a commercial, nonprofit, or local
13 government affiliation that could reasonably result in private electronic
14 communication with a student outside of the traceable communication system.
15 Upon filing the written disclosure, subsequent private electronic communication
16 directly related to the disclosed commercial, nonprofit, or local government
17 affiliation is no longer subject to the restrictions of subsections (2) and (3) of this
18 section in accordance with paragraph (5)(e) of this section.

19 (7) (a) A school district employee or qualified school volunteer that participated in
20 unauthorized electronic communication subject to subsection (2) and (3) of
21 this section or reasonably believes~~[receives a report alleging]~~ that another
22 school district employee or qualified school volunteer participated in
23 unauthorized electronic communication that is subject to subsections (2) and
24 (3) of this section that has not been previously reported shall immediately
25 notify the supervising principal or applicable supervisor. If the subject of the
26 report is the principal or a district-wide employee, the reporting employee or
27 volunteer shall immediately notify the superintendent of the school district. If

1 the subject of the report is the superintendent or a Kentucky Department of
 2 Education employee assigned to a school or area technology center within
 3 the school district on a full-time and continuing basis, the reporting
 4 employee or volunteer shall immediately notify the commissioner of
 5 education and the chair of the local board of education.

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

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

10 ~~(8)(7)~~ (a) Upon receipt of a report alleging that a school district employee or
 11 qualified school volunteer violated subsection (2) or (3) of this
 12 section ~~participated in unauthorized electronic communication~~, the

13 commissioner of education, a principal, or a superintendent shall immediately:

- 14 1. Notify the parent of each student that is an alleged party to the
 15 unauthorized electronic communications; and
- 16 2. a. If the individual that is the subject of the report is a certified
 17 employee:
 - 18 i. Notify the Education Professional Standards Board, which
 19 shall promptly investigate all allegations received under this
 20 subsection and proceed with appropriate disciplinary actions
 21 in accordance with KRS 161.120; and
 - 22 ii. Investigate the underlying allegations and proceed with
 23 appropriate disciplinary actions in accordance with KRS
 24 161.790;
- 25 b. If the individual that is the subject of the report is a classified
 26 employee, investigate the underlying allegations and proceed with
 27 appropriate disciplinary actions in accordance with KRS

1 161.011(7);~~and~~

2 c. If the individual that is the subject of the report is a *qualified*
 3 school~~or district~~ volunteer, the school or district shall investigate
 4 the underlying allegations and, if substantiated, the *qualified*
 5 *school* volunteer ~~may~~~~shall~~ be prohibited from future school and
 6 district volunteer opportunities; *and*

7 *d. Notwithstanding any statute to the contrary, notify the parent of*
 8 *each student that is an alleged party to the unauthorized*
 9 *electronic communication of each material phase of the*
 10 *investigation and disciplinary action under this subparagraph,*
 11 *including but not limited to a written summary of the results of*
 12 *an investigation and the final outcome of the disciplinary action.*

13 (b) A principal or superintendent who violates paragraph (a) of this subsection
 14 shall be subject to disciplinary action in accordance with KRS 156.132 and
 15 161.120.

16 ➔Section 2. If a school district volunteer was prohibited from future school
 17 volunteer opportunities pursuant to subsection (3)(c) of KRS 160.145 prior to the
 18 effective date of this Act, a school district may permit that person to participate in future
 19 school volunteer opportunities.

20 ➔Section 3. Whereas it is critical to ensure that parents, schools, and school
 21 districts have clarity on lawful electronic communication with students, an emergency is
 22 declared to exist, this Act takes effect upon its passage and approval by the Governor or
 23 upon its otherwise becoming a law.