

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 using a**
commercial business or activity;

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

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

9 (b) "Family member" means:

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

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

12 **3. An emergency contact for the student provided by a parent;**

13 (c) [-(b)] "Parent" means a parent, legal guardian, **a person acting as a parent in**
the absence of a parent or guardian, or other **individual** [person] or agency
24 responsible for **the** [a] student;

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

1 ~~(e)~~ "Qualified school volunteer" means an adult who:

2 1. Is not:

3 a. A school district employee; or

4 b. Enrolled in the school district; and

5 2. Has served the school or school district at any point during the current
6 school year:

7 a. As a student teacher, a nonfaculty coach or assistant coach, a
8 nonfaculty sponsor of an extracurricular program or activity, or
9 a school-sponsored academic tutor; or

10 b. In a nonfaculty student services role designated as a qualified
11 school volunteer by the local board of education;

12 ~~(f)~~~~(e)~~ "School district employee[or volunteer]":

13 1. Means a school administrator, classified or contract employee who is

14 not enrolled in the school district that provides direct services to

15 students,[or] certified employee[of a school district, school volunteer],

16 or compensated nonfaculty coach or assistant coach; and

17 2. Includes any Kentucky Department of Education or educational
18 cooperative employee who is assigned to a school or area technology
19 center within the school district on a full-time basis and granted
20 official access as a user of the traceable communication system[,

21 student teacher, or sponsor of an extracurricular program or activity];

22 ~~(g)~~~~(d)~~ "Traceable communication system" means one (1) or more electronic
23 school notification and communication programs or applications that:

24 1. Are designated by a local board of education in accordance with
25 subsection (2) of this section;

26 2. Trace all communications sent to or by a student; and

27 3. Provide parents an opportunity to access and review those

1 communications; and

2 (h)(e) "Unauthorized electronic communication":

3 1. Means private[an] electronic communication with a student enrolled in
4 a school district by the[a] school district's[district] employee or
5 qualified school volunteer who is not the student's family member that
6 occurs outside of a designated traceable communication system and
7 without prior written parental consent;[and]
8 2. Includes any private electronic communication with a student or
9 students enrolled in the school district through a personal email
10 account, text messaging, social media, or other private electronic
11 [notification and]communication program[programs] outside of the
12 traceable communication system; and[.]

3. Does not include:

1 (c) A qualified school volunteer that violates paragraph (a) of this subsection
2 ~~may[shall]~~ be prohibited by the school district from future school volunteer
3 opportunities.

4 (4) A parent may submit written consent to authorize a designated school district
5 employee or qualified school volunteer who is not a family member to participate
6 in private electronic communication~~communicate electronically~~ with his or her
7 child outside of the traceable communication system. The written consent:
8 (a) Shall be filed in the administrative office of the student's school;
9 (b) Shall be submitted to the administrative office of the school prior to any
10 private electronic communication being sent from a school district employee
11 or qualified school volunteer to a student outside of the traceable
12 communication system;
13 (c)~~(b)~~ Shall designate each~~a single,~~ specific school district employee or
14 qualified school volunteer ~~per each consent form~~ that may participate in
15 private electronic communication~~communicate~~ with the student outside of
16 the traceable communication system and shall not be transferable to any other
17 school district employee or qualified school volunteer;
18 (d)~~(e)~~ May be revoked by the~~a~~ parent who filed the consent at any time.
19 Upon notice of a revocation, the administrative office shall promptly notify
20 the school district and each school district employee and qualified school
21 volunteer subject to the revocation;
22 (e)~~(d)~~ May establish terms limiting electronic communication with a student,
23 ~~including [a term requiring that a parent be included as a direct party to all~~
24 ~~electronic communications sent to the student outside of the traceable~~
25 ~~communication system or]establishing an expiration for the term of the~~
26 ~~consent. Any electronic communication with the~~~~a~~ student enrolled in the
27 school district outside of the traceable communication system under this

1 subsection shall comply with all terms of the written consent;[and]

2 (f) Shall not be rejected or denied by the school or school district unless the
3 written consent fails to properly identify the applicable student, school
4 district employee, or qualified school volunteer. Upon receipt of the written
5 consent, the administrative office shall deliver a copy of the written consent
6 to the school district and the designated school district employee or qualified
7 school volunteer;

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

10 (h){(e)} Shall not authorize a school district employee or qualified school
11 volunteer to engage in inappropriate or sexual electronic communication with
12 a student or be used as a basis of a defense for a school district employee or
13 qualified school volunteer that engages in inappropriate or sexual electronic
14 communication with a student or students.

15 (5) Notwithstanding subsections (2) and (3) of this section, this section shall not restrict
16 any private electronic communications:

17 (a) Between a student and his or her family member who is a school district
18 employee or qualified school volunteer;

19 (b) Between a student and a school district employee or qualified school
20 volunteer who reasonably believes an emergency exists that creates an
21 imminent risk to any person or property, provided the school district
22 employee promptly discloses the private electronic communication to his or
23 her immediate supervisor after the fact in accordance with subsection (7) of
24 this section;

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

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

- 1 1. For certified employees, KRS 161.120 and 161.790; or
- 2 2. For classified employees, KRS 161.011(7).
- 3 (8)(7)(a) Upon receipt of a report alleging that a school district employee or
4 qualified school volunteer violated subsection (2) or (3) of this
5 sectionparticipated in unauthorized electronic communication, the
6 commissioner of education, a principal, or a superintendent shall immediately:
 - 7 1. Notify the parent of each student that is an alleged party to the
8 unauthorized electronic communications; and
 - 9 2. a. If the individual that is the subject of the report is a certified
10 employee:
 - 11 i. Notify the Education Professional Standards Board, which
12 shall promptly investigate all allegations received under this
13 subsection and proceed with appropriate disciplinary actions
14 in accordance with KRS 161.120; and
 - 15 ii. Investigate the underlying allegations and proceed with
16 appropriate disciplinary actions in accordance with KRS
17 161.790;
 - 18 b. If the individual that is the subject of the report is a classified
19 employee, investigate the underlying allegations and proceed with
20 appropriate disciplinary actions in accordance with KRS
21 161.011(7); and
 - 22 c. If the individual that is the subject of the report is a qualified
23 schoolor district volunteer, the school or district shall investigate
24 the underlying allegations and, if substantiated, the qualified
25 school volunteer mayshall be prohibited from future school and
26 district volunteer opportunities; and
 - 27 d. Notwithstanding any statute to the contrary, notify the parent of

each student that is an alleged party to the unauthorized electronic communication of each material phase of the investigation and disciplinary action under this subparagraph, including but not limited to a written summary of the results of an investigation and the final outcome of the disciplinary action.

6 (b) A principal or superintendent who violates paragraph (a) of this subsection
7 shall be subject to disciplinary action in accordance with KRS 156.132 and
8 161.120.

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

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