

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**  
7 **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*, or**  
18 **grandparent related to the student by consanguinity, affinity, or**  
19 **adoption;**

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

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

22 (c) ~~[(b) —]~~ "Parent" means a parent, legal guardian, **a person acting as a parent in**  
23 **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**  
26 **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

communications; and

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

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

3. Does not include:

- a. Virtual school instruction;
- b. Electronic translation services;
- c. Electronic communication with any telephone number provided by a parent for the purpose of school communication with that parent;
- d. Electronic communication in which a parent of the student is included as a recipient or participant;
- e. Voice communication on an official telephone number affiliated with the school or school district;
- f. Social media posts and comments that are not private electronic communication;
- g. Electronic communication related to commercial products or services with a telephone number, email address, or other electronic account affiliated with a lawful commercial business;

- 1 h. Secure messaging for healthcare providers; or  
2 i. Electronic communication between a school resource officer or  
3 director of pupil personnel and a student in which the principal,  
4 vice principal, or a school-based mental health services provider,  
5 as defined in KRS 158.4416, is included as a recipient or  
6 participant.

7 (2) Each local board of education shall designate a traceable communication system~~to~~  
8 ~~be the exclusive means~~ for ~~a~~ school district employees and qualified school  
9 volunteers~~employee or volunteer~~ to communicate electronically with students  
10 enrolled in the school district. The principal of each public school shall provide  
11 parents written or electronic notification within the first ten (10) days of the school  
12 year of each electronic school notification and communication program designated  
13 within the traceable communication system. The notification shall include  
14 instructions for parents to access and review communications sent through each  
15 electronic school notification and communication program.

16 (3) (a) ~~Except as provided in subsections (4) and (5) of this section,~~ A school  
17 district employee or qualified school volunteer shall not engage in  
18 unauthorized electronic communication~~communicate electronically with a~~  
19 ~~student~~:

- 20 1. ~~Outside of the traceable communication system designated by the local~~  
21 ~~board of education; or~~  
22 2. ~~Through an unauthorized electronic communication program or~~  
23 ~~application~~.

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

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

1 (c) A qualified school volunteer that violates paragraph (a) of this subsection  
2 ~~may~~<sup>shall</sup> 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)~~<sup>(b)</sup> 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)~~<sup>(e)</sup> May be revoked by the<sup>a</sup> 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)~~<sup>(d)</sup> 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<sup>a</sup> 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        (e) That are directly related to a commercial, nonprofit, or local government  
2        affiliation that has been previously disclosed in accordance with subsection  
3        (6) of this section.

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

12       (7) (a) A school district employee or qualified school volunteer that participated in  
13       unauthorized electronic communication subject to subsection (2) and (3) of  
14       this section or reasonably believes~~[receives a report alleging]~~ that another  
15       school district employee or qualified school volunteer participated in  
16       unauthorized electronic communication that is subject to subsections (2) and  
17       (3) of this section that has not been previously reported shall immediately  
18       notify the supervising principal or applicable supervisor. If the subject of the  
19       report is the principal or a district-wide employee, the reporting employee or  
20       volunteer shall immediately notify the superintendent of the school district. If  
21       the subject of the report is the superintendent or a Kentucky Department of  
22       Education employee assigned to a school or area technology center within  
23       the school district on a full-time and continuing basis, the reporting  
24       employee or volunteer shall immediately notify the commissioner of  
25       education and the chair of the local board of education.

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

- 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           section~~participated 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                 school~~or district~~ volunteer, the school or district shall investigate
- 24                 the underlying allegations and, if substantiated, the qualified
- 25                 school volunteer may~~shall~~ be prohibited from future school and
- 26                 district volunteer opportunities; and
- 27           d.   Notwithstanding any statute to the contrary, notify the parent of

1 each student that is an alleged party to the unauthorized  
2 electronic communication of each material phase of the  
3 investigation and disciplinary action under this subparagraph,  
4 including but not limited to a written summary of the results of  
5 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.