

1 AN ACT relating to special education classrooms.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 157.200 TO 157.290 IS CREATED
4 TO READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Injury" means physical harm inflicted by another person on a student,
7 teacher, staff member, or other individual;

8 (b) "Self-contained special education classroom":

9 1. Means a public school classroom for students in preschool through
10 grade twelve (12) in which at least half of the students in regular
11 attendance are provided special education services; and

12 2. Includes a calm-down room, sensory room, common area, or room
13 attached to a classroom where special education services are provided;
14 and

15 (c) "Surveillance system" means a video and audio surveillance system that
16 continuously monitors a self-contained special education classroom while
17 students and teachers are present.

18 (2) A public school district shall:

19 (a) Install, maintain, and regularly monitor a surveillance system in every self-
20 contained special education classroom in the district that records all areas
21 of each classroom, except that a bathroom or any area in a classroom in
22 which a student's clothes are changed shall not be monitored;

23 (b) Within the first five (5) days of a student's assignment to a self-contained
24 special education classroom, provide the following to the parent of the
25 student:

26 1. Notice of the use of a surveillance system to continuously monitor
27 students, teachers, and staff present in the classroom;

- 1 2. A copy of the informational guide published by the Kentucky
2 Department of Education in accordance with subsection (7) of this
3 section; and
- 4 3. District-specific instructions on how to request access to view video
5 and audio surveillance system recordings in accordance with
6 subsection (3) of this section, including the contact information of any
7 school district employee responsible for receiving such requests; and
- 8 (c) Display clear signage notifying room occupants of the surveillance system.
- 9 (3) (a) A parent of a student recorded in surveillance system recordings shall be
10 permitted access to view portions of the recordings that feature his or her
11 child in accordance with KRS 160.715.
- 12 (b) Upon a request from a parent to review a recording that features his or her
13 child, a school district shall maintain the recording and make reasonable
14 and timely effort to redact or segregate the portions of the recording directly
15 related to other students, without destroying the meaning of the recording.
16 If redaction or segregation of the recording cannot reasonably be
17 accomplished, or if doing so would destroy the meaning of the recording,
18 then the parents of each student not redacted or segregated in the recording
19 shall be:
- 20 1. Sent notice of the fact that another parent has requested lawful access
21 to review those portions of a recording; and
- 22 2. Permitted access to review those portions of a recording or any other
23 recording the parent would be entitled to review under this subsection.
- 24 (c) This section shall not be interpreted to limit any rights or protections
25 afforded under 20 U.S.C. sec. 1232q et seq. or KRS 160.700 to 160.730.
- 26 (4) Surveillance system recordings shall be retained according to the following
27 schedule:

- 1 (a) If no parent has requested to review the recording and the recording does
2 not include, or allegedly include, an injury to a student, teacher, staff
3 member, or other individual, for at least one (1) month;
- 4 (b) If a parent has requested to review an existing recording, until one (1)
5 month from the date the parent is notified of being granted access to review
6 the recordings; and
- 7 (c) If the district has knowledge that an existing recording includes, or
8 allegedly includes, an injury to a student, teacher, staff member, or other
9 individual, until the school district investigation of the injury and any law
10 enforcement action arising from the injury is complete or for two (2)
11 months, whichever is later.
- 12 (5) If a school district has knowledge of an injury, or alleged injury, of a student
13 inflicted by a school district employee in a self-contained special education
14 classroom, the school district shall notify the parent of each student in attendance
15 in the self-contained education classroom at the time of the injury or alleged
16 injury.
- 17 (6) Each local board of education shall adopt a policy to carry out this section.
- 18 (7) No later than January 1, 2027, the Kentucky Department of Education shall
19 develop and publish an informational guide for parents to understand and
20 exercise the rights afforded under this section, including instructions on how to
21 request access to video and audio surveillance system recordings and other
22 educational records.
- 23 (8) A surveillance system installed and operated in accordance with this section shall
24 be exempt from consent requirements under KRS Chapter 526.

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

- 26 (1) "Exceptional children and youth" means persons under twenty-one (21) years of
27 age who differ in one (1) or more respects from same-age peers in physical, mental,

1 learning, emotional, or social characteristics and abilities to such a degree that they
2 need special educational programs or services for them to benefit from the regular
3 or usual facilities or educational programs of the public schools in the districts in
4 which they reside. The Department of Education, through administrative
5 regulations promulgated by the Kentucky Board of Education, shall interpret the
6 statutory definitions of exceptionality. An exceptionality is any trait so defined in
7 this section or by administrative regulations promulgated by the Kentucky Board of
8 Education. Requirements of average daily attendance for exceptional classes shall
9 be regulated by statute, or in the absence of direction by administrative regulations
10 promulgated by the Kentucky Board of Education. Categories of exceptionalities
11 included within, but not limited by, this definition are as follows:

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

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

26 (c) "Speech or language impairment" means a communication disorder such as
27 stuttering, impaired articulation, impaired language, impaired voice, delayed

1 acquisition of language, or absence of language that adversely affects
2 educational performance to the extent that specially designed instruction is
3 required for the pupil to benefit from education;

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

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

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

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

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

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

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

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

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

25 (i) "Deaf-blind" means auditory and visual impairments, the combination of
26 which creates such severe communication and other developmental and
27 learning needs that the pupil cannot be appropriately educated in special

1 education programs designed solely for pupils with hearing impairments,
2 visual impairments, or severe disabilities, unless supplementary assistance is
3 provided to address educational needs resulting from the two (2) disabilities;

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

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

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

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

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

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

- 26 1. Engagement in repetitive activity and stereotyped movement;
- 27 2. Resistance to environmental change or change in daily routine; and

1 3. Unusual responses to sensory experience.

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

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

8 (2) **"Parent" or "parent or guardian" means a parent, legal guardian, person acting**
9 **as a parent in the absence of a parent or guardian, or other individual or agency**
10 **responsible for a student.**

11 (3) "Special education" means **educational instruction and special services designed**
12 ~~[specially designed instruction]~~ to meet the unique needs of an exceptional child or
13 youth.

14 (4)(3) "Special educational facilities" means physical facilities designed or adapted
15 to meet the needs of exceptional children and youth, and approved according to
16 regulations promulgated by the Kentucky Board of Education.

17 (5)(4) "Related services" means transportation and the developmental, corrective,
18 and other supportive services required to assist an exceptional child or youth to
19 benefit from special education, and may include, but are not limited to, speech-
20 language pathology and audiology services; psychological services; physical and
21 occupational therapy; recreation, including therapeutic recreation; early
22 identification and assessment of disabilities; counseling services, including
23 rehabilitation counseling; orientation and mobility services; medical services for
24 diagnostic or evaluation purposes; school health services; social work services in
25 schools; and parent counseling and training.

26 (6)(5) "Transition services" means a coordinated set of activities for a pupil designed
27 within an outcome-oriented process, that promotes movement from school to

1 postschool activities. The term includes:

2 (a) Postsecondary education;

3 (b) Vocational training; and

4 (c) Integrated employment, including supported employment, continuing and
5 adult education, adult services, independent living, or community
6 participation.

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