

1 AN ACT relating to moral instruction.

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

3 ➔Section 1. KRS 158.200 is amended to read as follows:

- 4 (1) The boards of education of local school districts ***shall allow***~~[may provide an~~  
5 ~~opportunity for]~~ pupils to attend moral instruction in their jurisdiction, in the  
6 manner provided in this section.
- 7 (2) (a) Local boards of education shall allow pupils to be excused for ***at least***~~[up to]~~  
8 one (1) hour ~~[on no more than one (1) day]~~ each week, which ***may***~~[shall]~~  
9 include time attributed to travel to and from, to attend a ~~[district approved~~  
10 ~~request for a]~~ moral instruction offering ***that complies with the requirements***  
11 ***established under subsection (3) of this section and*** upon receiving the  
12 consent of the pupil's parent or guardian.
- 13 (b) Moral instruction provided under this section shall not take place on school  
14 property, ***unless permitted under a local school board policy authorizing***  
15 ***equal access to the use of school property by public members of the***  
16 ***community.***
- 17 (c) Pupil participation in moral instruction shall be voluntary and free from  
18 coercion by school personnel.
- 19 (d) Moral instruction shall be given without expense to any local board of  
20 education above de minimis administrative expenses incurred in carrying out  
21 this section.
- 22 (3) An individual, organization, entity, or any combination thereof seeking to provide a  
23 moral instruction offering for pupils shall submit a written, signed ***plan***~~[request]~~ to  
24 the local board of education of a school district regarding the proposed moral  
25 instruction offering. The ***plan***~~[request]~~ shall include:
- 26 (a) Contact information for the primary individual who will be providing the  
27 moral instruction, as well as all other individuals who may be transporting

- 1 pupils or providing moral instruction to students through the offering;
- 2 (b) A statement acknowledging and agreeing to be bound by the requirements
- 3 placed upon moral instruction offerings under this section;
- 4 (c) The address or a description of the location where the moral instruction will
- 5 be provided;
- 6 (d) A transportation plan to ensure the safety of pupils while traveling to and
- 7 from moral instruction within the allotted time period;
- 8 (e) A statement acknowledging and agreeing to inform the parent or guardian of a
- 9 participating pupil that the school district and its employees and agents shall
- 10 not incur any liability as a result of any injury sustained by the pupil related to
- 11 participation in the moral instruction offering;
- 12 (f) A statement acknowledging and agreeing to indemnify and hold harmless the
- 13 school district and its employees and agents against any claims relating to the
- 14 moral instruction offering or transportation to or from the offering; and
- 15 (g) Proof of insurance coverage to be carried by the provider that shall include
- 16 adequate insurance for liability, property loss, and personal injury of students
- 17 related to the moral instruction offering or transportation to or from the
- 18 offering.
- 19 (4) (a) Upon receipt of a **plan that complies with the requirements**
- 20 **established**~~[request]~~ under subsection (3) of this section, the local board of
- 21 education **shall**~~[may]~~ make arrangements with the person seeking to provide
- 22 the moral instruction offering as the local board deems necessary **to facilitate**
- 23 **pupil participation in the moral instruction offering.**
- 24 (b) Upon approval by the local board of a **plan**~~[request]~~ under this section, the
- 25 superintendent of the school district shall require each individual identified in
- 26 the **plan**~~[request]~~ to submit to a national and state criminal history background
- 27 check by the Department of Kentucky State Police and the Federal Bureau of

1 Investigation and have a clear CA/N check, provided by the individual,  
 2 consistent with the provisions of KRS 160.380(6). The individuals, or the  
 3 organization or entity through which the moral instruction offering will be  
 4 provided, shall be responsible for all costs associated with obtaining the  
 5 criminal history and CA/N checks under this paragraph.

6 (c) As a condition of the agreement between the local board and a provider, the  
 7 local board shall require that any individual identified in the ~~plan~~<sup>request</sup>  
 8 under subsection (3) of this section be barred from providing transportation or  
 9 participating in moral instruction offerings under this section upon receipt by  
 10 the school district of a report documenting a record of:

- 11 1. Child abuse or neglect;
  - 12 2. A sex crime or criminal offense against a victim who is a minor, as  
 13 defined in KRS 17.500; or
  - 14 3. A violent crime as defined in KRS 17.165;
- 15 by the individual. The prohibition shall continue until the local board receives  
 16 an updated record for that individual that does not contain a disqualifying  
 17 item.

18 (5) A pupil who attends a moral instruction offering at the time specified and for the  
 19 period fixed shall be:

20 (a) Credited with the time of attendance as if he or she had been in actual  
 21 attendance in school, and the time shall be included as part of the actual  
 22 school work required in KRS 158.060. A pupil shall not be penalized for any  
 23 school work missed during the specified time; and

24 (b) Included in calculating the average daily attendance for the Support Education  
 25 Excellence in Kentucky program as if the pupil was in actual attendance in  
 26 school.

27 (6) A pupil who does not participate in a moral instruction offering shall remain in

1 school during the time when the instruction is being given~~], and shall take noncredit~~  
 2 ~~enrichment courses or participate in educational activities not required in the~~  
 3 ~~regular curriculum, and that time shall be included as part of the actual school work~~  
 4 ~~required in KRS 158.060. Students of different grade levels may be placed into~~  
 5 ~~combined classrooms in accordance with maximum class size allotments as~~  
 6 ~~described in KRS 157.360. These courses or activities shall be supervised by~~  
 7 ~~certified school personnel and may include but are not limited to study hall,~~  
 8 ~~computer instruction, music, art, library, physical education, and tutorial~~  
 9 ~~assistance].~~

10 (7) A school district shall not discriminate against a pupil for his or her participation or  
 11 nonparticipation in a moral instruction offering.

12 (8) (a) Each local board of education shall submit the following information  
 13 quarterly to the Kentucky Department of Education:

- 14 1. The name of each ***person***~~[applicant]~~ that submitted a ***plan***~~[request]~~ to  
 15 provide a moral instruction offering;
- 16 2. The date of the ***plan submission***~~[application]~~;
- 17 3. The local board's approval or denial of the ***plan***~~[application]~~; and
- 18 4. If the ***plan***~~[request]~~ was denied, the ***area or areas of noncompliance***  
 19 ***with the requirements established under subsection (3) that***  
 20 ***caused***~~[reason for]~~ the denial.

21 (b) The Kentucky Department of Education shall compile the quarterly reports  
 22 required by this subsection and submit a combined report to the Legislative  
 23 Research Commission no later than December 1 of each year for referral to  
 24 the appropriate Interim Joint Committee on Education.

25 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO  
 26 READ AS FOLLOWS:

27 **(1) The Attorney General may bring a civil action for a writ of mandamus to compel**

1 a local board of education to comply with Section 1 of this Act and subsection (3)  
2 of this section.

3 (2) (a) Notwithstanding any provision of law to the contrary, a qualified individual  
4 may bring a civil action for injunctive relief from a violation of Section 1 of  
5 this Act or subsection (3) of this section.

6 (b) Sovereign, governmental, and qualified immunity are waived for the limited  
7 purpose of bringing a claim filed under this subsection and arising from a  
8 violation of Section 1 of this Act or subsection (3) of this section.

9 (c) A qualified individual may recover reasonable and actual attorney's fees  
10 and litigation costs upon proving, by clear and convincing evidence, that a  
11 defendant intentionally and willfully violated Section 1 of this Act or  
12 subsection (3) of this section.

13 (d) The remedies identified in this subsection shall be in addition to and not in  
14 lieu of any other remedies available at law or equity.

15 (3) An employee or agent of a local board of education shall not use, or threaten the  
16 use of, any official authority or influence to discourage, interfere with, or  
17 otherwise retaliate against any individual who in good faith files, supports, aids,  
18 or otherwise participates in a civil action filed in accordance with subsection (2)  
19 of this section.