

1 AN ACT relating to physical activity in schools.

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

3 ➔Section 1. KRS 160.345 is amended to read as follows:

4 (1) For the purpose of this section:

5 (a) "Minority" means American Indian; Alaskan native; African-American;
6 Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or
7 South American origin; Pacific islander; or other ethnic group
8 underrepresented in the school;

9 (b) "Recess" means supervised and unstructured time for students for physical
10 activity, play, organized games, and social engagement with peers that is:

11 1. Separate and distinct from physical education courses and mealtimes,
12 but may follow or precede a physical education course or mealtime;
13 and

14 2. Held outdoors whenever practicable;

15 (c) "School" means an elementary or secondary educational institution that is
16 under the administrative control of a principal and is not a program or part of
17 another school. The term "school" does not include district-operated schools
18 that are:

19 1. Exclusively vocational-technical, special education, or preschool
20 programs;
21 2. Instructional programs operated in institutions or schools outside of the
22 district; or
23 3. Alternative schools designed to provide services to at-risk populations
24 with unique needs;

25 (d) "Teacher" means any person for whom certification is required as a
26 basis of employment in the public schools of the state, with the exception of
27 principals and assistant principals; and

1 **(e)** "Parent" means:

2 1. A parent, stepparent, or foster parent of a student; or

3 2. A person who has legal custody of a student pursuant to a court order

4 and with whom the student resides.

5 (2) Each local board of education shall adopt a policy for implementing school-based

6 decision making in the district which shall include but not be limited to a

7 description of how the district's policies, including those developed pursuant to

8 KRS 160.340, have been amended to allow the professional staff members of a

9 school to be involved in the decision-making process as they work to meet

10 educational goals established in KRS 158.645 and 158.6451. The policy may

11 include a requirement that each school council make an annual report at a public

12 meeting of the board describing the school's progress in meeting the educational

13 goals set forth in KRS 158.6451 and district goals established by the board. The

14 policy shall also address and comply with the following:

15 (a) Except as provided in paragraph (b)2. of this subsection, each participating

16 school shall form a school council composed of two (2) parents, three (3)

17 teachers, and the principal or administrator. The membership of the council

18 may be increased, but it may only be increased proportionately. A parent

19 representative on the council shall not be an employee or a relative of an

20 employee of the school in which that parent serves, nor shall the parent

21 representative be an employee or a relative of an employee in the district

22 administrative offices. A parent representative shall not be a local board

23 member or a board member's spouse. None of the members shall have a

24 conflict of interest pursuant to KRS Chapter 45A, except the salary paid to

25 district employees;

26 (b) 1. The teacher representatives shall be elected for one (1) year terms by a

27 majority of the teachers. A teacher elected to a school council shall not

1 be involuntarily transferred during the teacher representative's term of
2 office. The parent representatives shall be elected for one (1) year terms.
3 The parent members shall be elected by the parents of students
4 preregistered to attend the school during the term of office in an election
5 conducted by the parent and teacher organization of the school or, if
6 none exists, the largest organization of parents formed for this purpose.
7 Council elections may allow voting to occur over multiple days and via
8 electronic means. A school council, once elected, may adopt a policy
9 setting different terms of office for parent and teacher members
10 subsequently elected. The principal shall be the chair of the school
11 council.

12 2. School councils in schools having eight percent (8%) or more minority
13 students enrolled, as determined by the enrollment on the preceding
14 October 1, shall have at least one (1) minority member. If the council
15 formed under paragraph (a) of this subsection does not have a minority
16 member, the principal, in a timely manner, shall be responsible for
17 carrying out the following:

18 a. Organizing a special election to elect an additional member. The
19 principal shall call for nominations and shall notify the parents of
20 the students of the date, time, and location of the election to elect a
21 minority parent to the council by ballot; and

22 b. Allowing the teachers in the building to select one (1) minority
23 teacher to serve as a teacher member on the council. If there are no
24 minority teachers who are members of the faculty, an additional
25 teacher member shall be elected by a majority of all teachers.
26 Term limitations shall not apply for a minority teacher member
27 who is the only minority on faculty;

1 (c) 1. The school council shall have the responsibility to set school policy that
2 shall be consistent with district board policy and which shall provide an
3 environment to enhance the students' achievement and help the school
4 meet the goals established by KRS 158.645 and 158.6451 and goals for
5 the district established by the board. The principal shall be the primary
6 administrator and the instructional leader of the school, and with the
7 assistance of the total school staff shall administer the policies
8 established by the school council and the local board.

9 2. If a school council establishes committees, it shall adopt a policy to
10 facilitate the participation of interested persons, including, but not
11 limited to, classified employees and parents. The policy shall include the
12 number of committees, their jurisdiction, composition, and the process
13 for membership selection;

14 (d) The school council and each of its committees shall determine the frequency
15 of and agenda for their meetings. Matters relating to formation of school
16 councils that are not provided for by this section shall be addressed by local
17 board policy;

18 (e) The meetings of the school council shall be open to the public and all
19 interested persons may attend. However, the exceptions to open meetings
20 provided in KRS 61.810 shall apply;

21 (f) After receiving notification of the funds available for the school from the local
22 board, the school council shall determine, within the parameters of the total
23 available funds, the number of persons to be employed in each job
24 classification at the school. The council may make personnel decisions on
25 vacancies occurring after the school council is formed but shall not have the
26 authority to recommend transfers or dismissals;

27 (g) The local superintendent shall determine which curriculum, textbooks,

1 instructional materials, and student support services shall be provided in the
2 school after consulting with the local board of education, the school principal,
3 and the school council and after a reasonable review and response period for
4 stakeholders in accordance with local board of education policy. Subject to
5 available resources, the local board shall allocate an appropriation to each
6 school that is adequate to meet the school's needs related to instructional
7 materials and school-based student support services, as determined by the
8 school principal after consultation with the school council. The school council
9 shall consult with the school media librarian on the maintenance of the school
10 library media center, including the purchase of instructional materials,
11 information technology, and equipment;

12 (h) Personnel decisions at the school level shall be as follows:

13 1. From a list of qualified applicants submitted by the local superintendent,
14 the principal at the participating school shall select personnel to fill
15 vacancies, after consultation with the school council, consistent with
16 paragraph (i)11. of this subsection. The superintendent shall provide
17 additional applicants to the principal upon request when qualified
18 applicants are available. The superintendent may forward to the school
19 principal the names of qualified applicants who have pending
20 certification from the Education Professional Standards Board based on
21 recent completion of preparation requirements, out-of-state preparation,
22 or alternative routes to certification pursuant to KRS 161.028 and
23 161.048. Requests for transfer shall conform to any employer-employee
24 bargained contract which is in effect;

25 2. If the vacancy to be filled is the position of principal:

26 a. The superintendent shall fill the vacancy after consultation with
27 the school council consistent with paragraph (i)11. of this

1 subsection;

beginning and ending times of the school day and school calendar year as established by the local board;

5. Determination of use of school space during the school day related to improving classroom teaching and learning;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Adoption of an emergency plan as required in KRS 158.162;
10. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
11. Procedures to assist the council with consultation in the selection of the principal by the superintendent, and the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data as shown on state and local student assessments required under KRS 158.6453. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the

1 involvement of parents, faculty, and staff, shall develop and adopt a plan to
2 ensure that each student makes progress toward meeting the goals set forth in
3 KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan
4 to the superintendent and local board of education for review as described in
5 KRS 160.340. The Kentucky Department of Education shall provide each
6 school council the data needed to complete the review required by this
7 paragraph no later than October 1 of each year. If a school does not have a
8 council, the review shall be completed by the principal with the involvement
9 of parents, faculty, and staff.

10 (3) The policies adopted by the local board to implement school-based decision making
11 shall also address the following:

12 (a) School budget and administration, including: discretionary funds; activity and
13 other school funds; funds for maintenance, supplies, and equipment; and
14 procedures for authorizing reimbursement for training and other expenses;

15 (b) Assessment of individual student progress, including testing and reporting of
16 student progress to students, parents, the school district, the community, and
17 the state;

18 (c) School improvement plans, including the form and function of strategic
19 planning and its relationship to district planning, as well as the school safety
20 plan and requests for funding from the Center for School Safety under KRS
21 158.446;

22 (d) Professional development plans developed pursuant to KRS 156.095;

23 (e) Parent, citizen, and community participation including the relationship of the
24 council with other groups;

25 (f) Cooperation and collaboration within the district, with other districts, and with
26 other public and private agencies;

27 (g) Requirements for waiver of district policies;

1 (h) Requirements for record keeping by the school council; and

2 (i) A process for appealing a decision made by a school council.

3 (4) In addition to the authority granted to the school council in this section, the local

4 board may grant to the school council any other authority permitted by law. The

5 board shall make available liability insurance coverage for the protection of all

6 members of the school council from liability arising in the course of pursuing their

7 duties as members of the council.

8 (5) All schools shall implement school-based decision making in accordance with this

9 section and with the policy adopted by the local board pursuant to this section.

10 Upon favorable vote of a majority of the faculty at the school and a majority of at

11 least twenty-five (25) voting parents of students enrolled in the school, a school

12 meeting its goal as determined by the Department of Education pursuant to KRS

13 158.6455 may apply to the Kentucky Board of Education for exemption from the

14 requirement to implement school-based decision making, and the state board shall

15 grant the exemption. The voting by the parents on the matter of exemption from

16 implementing school-based decision making shall be in an election conducted by

17 the parent and teacher organization of the school or, if none exists, the largest

18 organization of parents formed for this purpose. Notwithstanding the provisions of

19 this section, a local school district shall not be required to implement school-based

20 decision making if the local school district contains only one (1) school.

21 (6) The Department of Education shall provide professional development activities to

22 assist schools in implementing school-based decision making. School council

23 members elected for the first time shall complete a minimum of six (6) clock hours

24 of training in the process of school-based decision making, no later than thirty (30)

25 days after the beginning of the service year for which they are elected to serve.

26 School council members who have served on a school council at least one (1) year

27 shall complete a minimum of three (3) clock hours of training in the process of

1 school-based decision making no later than one hundred twenty (120) days after the
2 beginning of the service year for which they are elected to serve. Experienced
3 members may participate in the training for new members to fulfill their training
4 requirement. School council training required under this subsection shall be
5 conducted by trainers endorsed by the Department of Education. By November 1 of
6 each year, the principal through the local superintendent shall forward to the
7 Department of Education the names and addresses of each council member and
8 verify that the required training has been completed. School council members
9 elected to fill a vacancy shall complete the applicable training within thirty (30)
10 days of their election.

11 (7) A school that chooses to have school-based decision making but would like to be
12 exempt from the administrative structure set forth by this section may develop a
13 model for implementing school-based decision making, including but not limited to
14 a description of the membership, organization, duties, and responsibilities of a
15 school council. The school shall submit the model through the local board of
16 education to the commissioner of education and the Kentucky Board of Education,
17 which shall have final authority for approval. The application for approval of the
18 model shall show evidence that it has been developed by representatives of the
19 parents, students, certified personnel, and the administrators of the school and that
20 two-thirds (2/3) of the faculty have agreed to the model.

21 (8) The Kentucky Board of Education, upon recommendation of the commissioner of
22 education, shall adopt by administrative regulation a formula by which school
23 district funds shall be allocated to each school council. Included in the school
24 council formula shall be an allocation for professional development that is at least
25 sixty-five percent (65%) of the district's per pupil state allocation for professional
26 development for each student in average daily attendance in the school. The school
27 council shall plan professional development in compliance with requirements

1 specified in KRS 156.095, except as provided in KRS 158.649. School councils of
2 small schools shall be encouraged to work with other school councils to maximize
3 professional development opportunities.

4 (9) (a) No board member, superintendent of schools, district employee, or member of
5 a school council shall intentionally engage in a pattern of practice which is
6 detrimental to the successful implementation of or circumvents the intent of
7 school-based decision making to allow the professional staff members of a
8 school and parents to be involved in the decision making process in working
9 toward meeting the educational goals established in KRS 158.645 and
10 158.6451 or to make decisions in areas of policy assigned to a school council
11 pursuant to paragraph (i) of subsection (2) of this section.

12 (b) An affected party who believes a violation of this subsection has occurred
13 may file a written complaint with the Office of Education Accountability. The
14 office shall investigate the complaint and resolve the conflict, if possible, or
15 forward the matter to the Kentucky Board of Education.

16 (c) The Kentucky Board of Education shall conduct a hearing in accordance with
17 KRS Chapter 13B for complaints referred by the Office of Education
18 Accountability.

19 (d) If the state board determines a violation has occurred, the party shall be
20 subject to reprimand. A second violation of this subsection may be grounds
21 for removing a superintendent or a member of a school council from office or
22 grounds for dismissal of an employee for misconduct in office or willful
23 neglect of duty.

24 (e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the
25 state board determines a violation of the nondisclosure agreement required by
26 subsection (2)(h)2.b. of this section by a school council member has occurred,
27 the state board shall remove the member from the school council, and the

1 member shall be permanently prohibited from serving on any school council
2 in the district.

3 (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or
4 maintain a school-based decision making council and the powers, duties, and
5 authority granted to a school council may be rescinded or the school council's role
6 may be advisory if the commissioner of education or the Kentucky Board of
7 Education takes action under KRS 160.346.

8 (11) (a) Each school council[~~of a school containing grades K 5 or any combination~~
9 ~~thereof~~], or if there is no school council, the principal, shall develop and
10 implement a wellness policy that includes moderate to vigorous physical
11 activity each day and encourages healthy choices among students. The policy:

12 1. For students enrolled in kindergarten to grade five (5), shall include a
13 minimum of:

14 a. Thirty (30) minutes of recess as part of each regular full
15 instructional day; and

16 b. Fifteen (15) minutes of recess as part of each scheduled early
17 release instructional day;

18 2. For students enrolled in grades six (6) through twelve (12), may
19 include up to thirty (30) minutes of recess as~~[may permit physical~~
20 ~~activity to be considered]~~ part of the instructional day. If offered, a
21 minimum of fifteen (15) minutes of recess shall be included as part of
22 an instructional day~~[, not to exceed thirty (30) minutes per day, or one~~
23 ~~hundred and fifty (150) minutes per week.]~~;

24 3. May permit age and developmentally appropriate supervised physical
25 exercise to be used as a tool for student discipline during the recess
26 period if the physical exercise is conducted outdoors whenever
27 practicable; and

1 4. Except as provided in subparagraph 3. of this paragraph, shall
2 prohibit the denial of student participation in recess unless the
3 student's participation poses an immediate threat to the physical safety
4 of the student, school personnel, or any other student. If a student is
5 denied recess pursuant to this subparagraph, school personnel shall
6 make all reasonable efforts to resolve the threat and minimize
7 exclusion from recess to the greatest extent practicable.

8 (b) Each school council, or if there is no school council, the principal, shall adopt
9 an assessment tool to determine each child's level of physical activity on an
10 annual basis. The council or principal may utilize an existing assessment
11 program.

12 (c) The Kentucky Department of Education shall make available a list of
13 available resources to carry out the provisions of this subsection. The
14 department shall report to the Legislative Research Commission for referral
15 to the Interim Joint Committee on Education no later than November 1 of
16 each year on how the schools are providing physical activity under this
17 subsection and on the types of physical activity being provided. The policy
18 developed by the school council or principal shall comply with provisions
19 required by federal law, state law, or local board policy.

20 ➔Section 2. The wellness policy required by subsection of Section 1 of this Act
21 shall be adopted and implemented prior to the first student attendance day of the 2026-
22 2027 school year.