

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) "Family member" means:

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

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

10 (b) "Parent" means a parent, legal guardian, *a person acting as a parent in the*  
11 *absence of a parent or guardian*, or other *individual*~~[person]~~ or agency  
12 responsible for *the*~~[a]~~ student;

13 (c) *"Private electronic communication" means electronic communication that*  
14 *involves direct one-on-one or group conversations that are only accessible*  
15 *to the participants;*

16 (d) *"Qualified school volunteer" means an adult who:*

17 1. *Is not:*

18 *a. A school district employee; or*

19 *b. Enrolled in the school district; and*

20 2. *Has served the school or school district at any point during the current*  
21 *school year;*

22 *a. As a student teacher, a nonfaculty coach or assistant coach, a*  
23 *nonfaculty sponsor of an extracurricular program or activity, or*  
24 *a school-sponsored academic tutor; or*

25 *b. In a nonfaculty student services role designated as a qualified*  
26 *school volunteer by the local board of education.*

27 (e) "School district employee~~[or volunteer]~~";

1           1. Means a school administrator, classified or contract employee who is  
 2           not enrolled in the school district,~~for~~ certified employee~~of a school~~  
 3           ~~district, school volunteer~~, or compensated nonfaculty coach or assistant  
 4           coach; and

5           2. Includes any Kentucky Department of Education or educational  
 6           cooperative employee who is assigned to a school or area technology  
 7           center within the school district, ~~student teacher, or sponsor of an~~  
 8           ~~extracurricular program or activity~~;

9           (f)~~(d)~~ "Traceable communication system" means one (1) or more electronic  
 10          school notification and communication programs or applications that:

- 11           1. Are designated by a local board of education in accordance with
- 12           subsection (2) of this section;
- 13           2. Trace all communications sent to or by a student; and
- 14           3. Provide parents an opportunity to access and review those
- 15           communications; and

16          (g)~~(e)~~ "Unauthorized electronic communication":

- 17           1. Means private~~an~~ electronic communication with a student enrolled in  
 18           a school district by the~~a~~ school district's~~district~~ employee or  
 19           qualified school volunteer who is not the student's family member that  
 20           occurs outside of a designated traceable communication system and  
 21           without prior written parental consent;~~and~~

- 22           2. Includes any private electronic communication with a student or  
 23           students enrolled in the school district through a personal email  
 24           account, text messaging, social media, or other private electronic  
 25           ~~notification and~~ communication program~~programs~~ outside of the  
 26           traceable communication system~~;~~ and

27          3. Does not include:

- 1 a. Virtual school instruction;
- 2 b. Electronic translation services;
- 3 c. Electronic communication with any telephone number provided
- 4 by a parent for the purpose of school communication with that
- 5 parent;
- 6 d. Electronic communication in which a parent of the student is
- 7 included as a recipient or participant;
- 8 e. Voice communication on an official telephone number affiliated
- 9 with the school or school district;
- 10 f. Social media posts and comments that are not private electronic
- 11 communication;
- 12 g. Electronic communication related to commercial products or
- 13 services with a telephone number, email address, or other
- 14 electronic account affiliated with a lawful commercial business;
- 15 h. Secure messaging for healthcare providers; or
- 16 i. Electronic communication between a school resource officer or
- 17 director of pupil personnel and a student in which the principal,
- 18 vice principal, or a school-based mental health services provider,
- 19 as defined by KRS 158.4416, is included as a recipient or
- 20 participant.

21 (2) Each local board of education shall designate a traceable communication system~~[-to~~  
22 ~~be the exclusive means]~~ for ~~[a-]~~school district employees and qualified school  
23 volunteers~~[employee or volunteer]~~ to communicate electronically with students  
24 enrolled in the school district. The principal of each public school shall provide  
25 parents written or electronic notification within the first ten (10) days of the school  
26 year of each electronic school notification and communication program designated  
27 within the traceable communication system. The notification shall include

1 instructions for parents to access and review communications sent through each  
2 electronic school notification and communication program.

3 (3) (a) ~~[Except as provided in subsections (4) and (5) of this section, ]~~A school  
4 district employee or qualified school volunteer shall not engage in  
5 unauthorized electronic communication~~[communicate electronically with a~~  
6 ~~student.~~

7 1. ~~Outside of the traceable communication system designated by the local~~  
8 ~~board of education; or~~

9 2. ~~Through an unauthorized electronic communication program or~~  
10 ~~application].~~

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

13 1. For certified employees, KRS 161.120 and 161.790; or

14 2. For classified employees, KRS 161.011(7).

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

18 (4) A parent may submit written consent to authorize a designated school district  
19 employee or qualified school volunteer who is not a family member to participate  
20 in private electronic communication~~[communicate electronically]~~ with his or her  
21 child outside of the traceable communication system. The written consent:

22 (a) Shall be filed in the administrative office of the student's school;

23 (b) Shall be submitted to the administrative office prior to any private electronic  
24 communication being sent from a school district employee or qualified school  
25 volunteer to a student outside of the traceable communication system;

26 (c)~~[(b)]~~ Shall designate each~~[a single,]~~ specific school district employee or  
27 qualified school volunteer~~[per each consent form]~~ that may participate in

1 private electronic communication~~[communicate]~~ with the student outside of  
2 the traceable communication system and shall not be transferable to any other  
3 school district employee or qualified school volunteer;

4 ~~(d)~~~~(e)~~ May be revoked by ~~the~~~~[a]~~ parent who filed the consent at any time.  
5 Upon notice of a revocation, the administrative office shall promptly notify  
6 the school district and each school district employee and qualified school  
7 volunteer subject to the revocation;

8 ~~(e)~~~~(d)~~ May establish terms limiting electronic communication with a student,  
9 including ~~[a term requiring that a parent be included as a direct party to all~~  
10 ~~electronic communications sent to the student outside of the traceable~~  
11 ~~communication system or]~~ establishing an expiration for the term of the  
12 consent. Any electronic communication with ~~the~~~~[a]~~ student enrolled in the  
13 school district outside of the traceable communication system under this  
14 subsection shall comply with all terms of the written consent;~~[and]~~

15 (f) Shall not be rejected or denied by the school or school district unless the  
16 written consent fails to properly identify the applicable student, school  
17 district employee, or qualified school volunteer. Upon receipt of the written  
18 consent, the administrative office of the school shall deliver a copy of the  
19 written consent to the school district and the designated school district  
20 employee or qualified school volunteer;

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

23 ~~(h)~~~~(e)~~ Shall not authorize a school district employee or qualified school  
24 volunteer to engage in inappropriate or sexual electronic communication with  
25 a student or be used as a basis of a defense for a school district employee or  
26 qualified school volunteer that engages in inappropriate or sexual electronic  
27 communication with a student or students.

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

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

(b) Between a student and a school district employee or qualified school volunteer who reasonably believes an emergency exists that creates an imminent risk to any person or property, provided the school district employee promptly discloses the private electronic communication to his or her immediate supervisor after the fact in accordance with subsection (6) of this section.

(6) (a) A school district employee or qualified school volunteer that participated in unauthorized electronic communication or reasonably believes~~[receives a report alleging]~~ that another school district employee or qualified school volunteer participated in unauthorized electronic communication that has not been previously reported shall immediately notify the supervising principal or applicable supervisor. If the subject of the report is the principal or district-wide employee, the reporting employee or volunteer shall immediately notify the superintendent of the school district. If the subject of the report is the superintendent or a Kentucky Department of Education employee assigned to a school or area technology center within the school district, the reporting employee or volunteer shall immediately notify the commissioner of education and the chair of the local board of education.

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

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

(7) (a) Upon receipt of a report alleging that a school district employee or qualified

1            school volunteer participated in unauthorized electronic communication, the  
2            commissioner of education, a principal, or a superintendent shall immediately:

3            1.    Notify the parent of each student that is an alleged party to the  
4            unauthorized electronic communications; and

5            2.    a.    If the individual that is the subject of the report is a certified  
6            employee:

7                    i.    Notify the Education Professional Standards Board, which  
8                    shall promptly investigate all allegations received under this  
9                    subsection and proceed with appropriate disciplinary actions  
10                  in accordance with KRS 161.120; and

11                  ii.   Investigate the underlying allegations and proceed with  
12                  appropriate disciplinary actions in accordance with KRS  
13                  161.790;

14                  b.    If the individual that is the subject of the report is a classified  
15                  employee, investigate the underlying allegations and proceed with  
16                  appropriate disciplinary actions in accordance with KRS  
17                  161.011(7);~~and~~

18                  c.    If the individual that is the subject of the report is a qualified  
19                  school~~or district~~ volunteer, the school or district shall investigate  
20                  the underlying allegations and, if substantiated, the qualified  
21                  school volunteer may~~shall~~ be prohibited from future school and  
22                  district volunteer opportunities; and

23                  d.    Notwithstanding any statute to the contrary, notify the parent of  
24                  each student that is an alleged party to the unauthorized  
25                  electronic communication of each material phase of an  
26                  investigation and disciplinary action under this subparagraph,  
27                  including but not limited to a written summary of the results of

1                                   *an investigation and the final outcome of the disciplinary action.*

2           (b) A principal or superintendent who violates paragraph (a) of this subsection  
3               shall be subject to disciplinary action in accordance with KRS 156.132 and  
4               161.120.

5           ➔Section 2. If a school district volunteer was prohibited from future school  
6   volunteer opportunities pursuant to subsection (3)(c) of Section 1 of this Act prior to the  
7   effective date of this Act, a school district may permit that person to participate in future  
8   school volunteer opportunities.

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