

1 AN ACT relating to boarding schools.

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

3 ➔Section 1. KRS 159.030 is amended to read as follows:

4 (1) The board of education of the district in which the child resides shall exempt from
5 the requirement of attendance upon a regular public day school every child of
6 compulsory school age:

7 (a) Who is a graduate from an accredited or an approved four (4) year high
8 school; or

9 (b) Who is enrolled and in regular attendance in a private, parochial,~~[-or]~~ church,
10 **boarding, or church boarding**~~[-regular-day]~~ school. It shall be the duty of
11 each private, parochial,~~[-or]~~ church, **boarding, or church boarding**~~[-regular~~
12 ~~day]~~ school to notify the local board of education of those students in
13 attendance at the school. If a school declines, for any reason, to notify the
14 local board of education of those students in attendance, it shall so notify each
15 student's parent or legal guardian in writing, and it shall then be the duty of the
16 parent or legal guardian to give proper notice to the local board of education;
17 or

18 (c) Who is less than seven (7) years old and is enrolled and in regular attendance
19 in a private kindergarten-nursery school; or

20 (d) Whose physical or mental condition prevents or renders inadvisable
21 attendance at school or application to study; or

22 (e) Who is enrolled and in regular attendance in private, parochial,~~[-or]~~ church,
23 **boarding, or church boarding** school programs for exceptional children; or

24 (f) Who is enrolled and in regular attendance in a state-supported program for
25 exceptional children;

26 (g) For purposes of this section:~~[-]~~

27 **1.** "Church school" **means** ~~[shall mean]~~ a school operated as a ministry of a

1 local church, group of churches, denomination, or association of
2 churches on a nonprofit basis;[-]

3 2. "Boarding school" means a school that provides twenty-four (24)
4 hour residential care to students under the age of eighteen (18) who
5 are not related by blood, adoption, or marriage to the person
6 maintaining the school; operates on a nonprofit basis; and is
7 authorized in accordance with KRS 199.380, if applicable; and

8 3. "Church boarding school" means a boarding school operated as a
9 ministry of a local church, group of churches, denomination, or
10 association of churches on a nonprofit basis. A church boarding
11 school shall be treated as a boarding school for all lawful purposes.

12 (2) Before granting an exemption under subsection (1)(d) of this section, the board of
13 education of the district in which the child resides shall require satisfactory
14 evidence, in the form of:

15 (a) A signed statement of a licensed physician, advanced practice registered
16 nurse, psychologist, psychiatrist, chiropractor, or public health officer, that the
17 condition of the child prevents or renders inadvisable attendance at school or
18 application to study. On the basis of such evidence, the board may exempt the
19 child from compulsory attendance. Any child who is excused from school
20 attendance more than six (6) months shall have two (2) signed statements
21 from a combination of the following professional persons: a licensed
22 physician, advanced practice registered nurse, psychologist, psychiatrist,
23 chiropractor, and health officer, except that this requirement shall not apply to
24 a child whose treating physician, advanced practice registered nurse,
25 chiropractor, or public health officer certifies that the student has a chronic
26 physical condition that prevents or renders inadvisable attendance at school or
27 application to study and is unlikely to substantially improve within one (1)

1 year; or

2 (b) An individual education plan specifying that placement of the child with a
3 disability at home or in a hospital is the least restrictive environment for
4 providing services.

5 Exemptions of all children under the provisions of subsection (1)(d) of this section
6 shall be reviewed annually with the evidence required being updated, except that for
7 an exceptional child whose treating physician, advanced practice registered nurse,
8 chiropractor, or public health officer certifies that the student has a chronic physical
9 condition unlikely to substantially improve within three (3) years, the child's
10 admissions and release committee shall annually consider the child's condition and
11 the existing documentation to determine whether updated evidence is required.
12 Updated evidence shall be provided for a child upon determination of need by the
13 admissions and release committee, or at least every three (3) years.

14 (3) For any child who is excluded under the provisions of subsection (1)(d) of this
15 section, home, hospital, institutional, or other regularly scheduled and suitable
16 instruction meeting standards, rules, and regulations of the Kentucky Board of
17 Education shall be provided.

18 ➔Section 2. KRS 156.160 is amended to read as follows:

19 (1) With the advice of the Local Superintendents Advisory Council, the Kentucky
20 Board of Education shall promulgate administrative regulations establishing
21 standards which school districts shall meet in student, program, service, and
22 operational performance. These regulations shall comply with the expected
23 outcomes for students and schools set forth in KRS 158.6451. Administrative
24 regulations shall be promulgated for the following:

25 (a) Courses of study for the different grades and kinds of common schools
26 identifying the common curriculum content directly tied to the goals,
27 outcomes, and assessment strategies developed under KRS 158.645,

1 158.6451, and 158.6453 and distributed to local school districts and schools.

2 The administrative regulations shall provide that:

3 1. If a school offers American sign language, the course shall be accepted
4 as meeting the foreign language requirements in common schools
5 notwithstanding other provisions of law; and

6 2. If a school offers the Reserve Officers Training Corps program, the
7 course shall be accepted as meeting the physical education requirement
8 for high school graduation notwithstanding other provisions of law;

9 (b) Courses of study or educational experiences available to students in all middle
10 and high schools to fulfill the prerequisites for courses in advanced science
11 and mathematics as defined in KRS 158.845;

12 (c) The acquisition and use of educational equipment for the schools as
13 recommended by the Council for Education Technology;

14 (d) The minimum requirements for high school graduation in light of the expected
15 outcomes for students and schools set forth in KRS 158.6451. Student scores
16 from any assessment administered under KRS 158.6453 that are determined
17 by the National Technical Advisory Panel to be valid and reliable at the
18 individual level shall be included on the student transcript. The National
19 Technical Advisory Panel shall submit its determination to the commissioner
20 of education and the Legislative Research Commission;

21 (e) The requirements for an alternative high school diploma for students with
22 disabilities whose individualized education program indicates that, in
23 accordance with 20 U.S.C. sec. 1414(d)(1)(A):

24 1. The student cannot participate in the regular statewide assessment; and

25 2. An appropriate alternate assessment has been selected for the student
26 based upon a modified curriculum and an individualized course of study;

27 (f) Taking and keeping a school census, and the forms, blanks, and software to be

1 used in taking and keeping the census and in compiling the required reports.
2 The board shall create a statewide student identification numbering system
3 based on students' Social Security numbers. The system shall provide a
4 student identification number similar to, but distinct from, the Social Security
5 number, for each student who does not have a Social Security number or
6 whose parents or guardians choose not to disclose the Social Security number
7 for the student;

8 (g) Sanitary and protective construction of public school buildings, toilets,
9 physical equipment of school grounds, school buildings, and classrooms. With
10 respect to physical standards of sanitary and protective construction for school
11 buildings, the Kentucky Board of Education shall adopt the Uniform State
12 Building Code;

13 (h) Medical inspection, physical and health education and recreation, and other
14 regulations necessary or advisable for the protection of the physical welfare
15 and safety of the public school children. The administrative regulations shall
16 set requirements for student health standards to be met by all students in
17 grades four (4), eight (8), and twelve (12) pursuant to the outcomes described
18 in KRS 158.6451. The administrative regulations shall permit a student who
19 received a physical examination no more than six (6) months prior to his
20 initial admission to Head Start to substitute that physical examination for the
21 physical examination required by the Kentucky Board of Education of all
22 students upon initial admission to the public schools, if the physical
23 examination given in the Head Start program meets all the requirements of the
24 physical examinations prescribed by the Kentucky Board of Education;

25 (i) A vision examination by an optometrist or ophthalmologist that shall be
26 required by the Kentucky Board of Education. The administrative regulations
27 shall require evidence that a vision examination that meets the criteria

1 prescribed by the Kentucky Board of Education has been performed. This
2 evidence shall be submitted to the school no later than January 1 of the first
3 year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a
4 public school, public preschool, or Head Start program;

5 (j) 1. Beginning with the 2010-2011 school year, a dental screening or
6 examination by a dentist, dental hygienist, physician, registered nurse,
7 advanced practice registered nurse, or physician assistant that shall be
8 required by the Kentucky Board of Education. The administrative
9 regulations shall require evidence that a dental screening or examination
10 that meets the criteria prescribed by the Kentucky Board of Education
11 has been performed. This evidence shall be submitted to the school no
12 later than January 1 of the first year that a five (5) or six (6) year-old
13 child is enrolled in a public school.

14 2. A child shall be referred to a licensed dentist if a dental screening or
15 examination performed by anyone other than a licensed dentist identifies
16 the possibility of dental disease;

17 (k) The transportation of children to and from school;

18 (l) The fixing of holidays on which schools may be closed and special days to be
19 observed, and the pay of teachers during absence because of sickness or
20 quarantine or when the schools are closed because of quarantine;

21 (m) The preparation of budgets and salary schedules for the several school districts
22 under the management and control of the Kentucky Board of Education;

23 (n) A uniform series of forms and blanks, educational and financial, including
24 forms of contracts, for use in the several school districts; and

25 (o) The disposal of real and personal property owned by local boards of
26 education.

27 (2) (a) At the request of a local board of education or a school council, a local school

1 district superintendent shall request that the Kentucky Board of Education
2 waive any administrative regulation promulgated by that board. Beginning in
3 the 1996-97 school year, a request for waiver of any administrative regulation
4 shall be submitted to the Kentucky Board of Education in writing with
5 appropriate justification for the waiver. The Kentucky Board of Education
6 may approve the request when the school district or school has demonstrated
7 circumstances that may include but are not limited to the following:

- 8 1. An alternative approach will achieve the same result required by the
9 administrative regulation;
- 10 2. Implementation of the administrative regulation will cause a hardship on
11 the school district or school or jeopardize the continuation or
12 development of programs; or
- 13 3. There is a finding of good cause for the waiver.

14 (b) The following shall not be subject to waiver:

- 15 1. Administrative regulations relating to health and safety;
- 16 2. Administrative regulations relating to civil rights;
- 17 3. Administrative regulations required by federal law; and
- 18 4. Administrative regulations promulgated in accordance with KRS
19 158.6451, 158.6453, 158.6455, and this section, relating to measurement
20 of performance outcomes and determination of successful districts or
21 schools, except upon issues relating to the grade configuration of
22 schools.

23 (c) Any waiver granted under this subsection shall be subject to revocation upon a
24 determination by the Kentucky Board of Education that the school district or
25 school holding the waiver has subsequently failed to meet the intent of the
26 waiver.

27 (3) Any private, parochial,~~[-or]~~ church, boarding, or church boarding school may

1 voluntarily comply with curriculum, certification, and textbook standards
2 established by the Kentucky Board of Education and be certified upon application to
3 the board by such schools.

- 4 (4) Any public school that violates the provisions of KRS 158.854 shall be subject to a
5 penalty to be assessed by the commissioner of education as follows:
- 6 (a) The first violation shall result in a fine of no less than one (1) week's revenue
7 from the sale of the competitive food;
 - 8 (b) Subsequent violations shall result in a fine of no less than one (1) month's
9 revenue from the sale of the competitive food;
 - 10 (c) "Habitual violations," which means five (5) or more violations within a six (6)
11 month period, shall result in a six (6) month ban on competitive food sales for
12 the violating school; and
 - 13 (d) Revenue collected as a result of the fines in this subsection shall be transferred
14 to the food service fund of the local school district.

15 ➔Section 3. KRS 160.151 (Effective July 1, 2018) is amended to read as follows:

- 16 (1) (a) 1. A private, parochial,~~[-or]~~ church, **boarding, or church boarding** school
17 that has voluntarily been certified by the Kentucky Board of Education
18 in accordance with KRS 156.160(3) may require a national and state
19 criminal background check and require a letter from the Cabinet for
20 Health and Family Services stating that the person has no findings of
21 substantiated child abuse or neglect found through a background check
22 of child abuse and neglect records maintained by the Cabinet for Health
23 and Family Services on all new certified hires in the school and student
24 teachers assigned to the school and may require a new national and state
25 criminal background check and require a letter from the Cabinet for
26 Health and Family Services stating that the person has no findings of
27 substantiated child abuse or neglect found through a background check

1 of child abuse and neglect records maintained by the Cabinet for Health
2 and Family Services on each certified teacher once every five (5) years
3 of employment.

4 2. Certified individuals who were employed in another certified position in
5 a Kentucky school within six (6) months of the date of the hire and who
6 had previously submitted to a national and state criminal background
7 check and require a letter from the Cabinet for Health and Family
8 Services stating that the person has no findings of substantiated child
9 abuse or neglect found through a background check of child abuse and
10 neglect records maintained by the Cabinet for Health and Family
11 Services for previous employment may be excluded from the initial
12 national or state criminal background checks.

13 (b) The national criminal history background check shall be conducted by the
14 Federal Bureau of Investigation. The state criminal history background check
15 shall be conducted by the Department of Kentucky State Police or the
16 Administrative Office of the Courts.

17 (c) All fingerprints requested under this section shall be on an applicant
18 fingerprint card provided by the Department of Kentucky State Police. The
19 fingerprint cards shall be forwarded to the Federal Bureau of Investigation by
20 the Department of Kentucky State Police after a state criminal background
21 check has been conducted. Any fee charged by the Department of Kentucky
22 State Police, the Administrative Office of the Courts, or the Federal Bureau of
23 Investigation shall be an amount no greater than the actual cost of processing
24 the request and conducting the search.

25 (2) If a school requires a criminal background check or requires a letter from the
26 Cabinet for Health and Family Services stating that the person has no findings of
27 substantiated child abuse or neglect found through a background check of child

1 abuse and neglect records maintained by the Cabinet for Health and Family Services
2 for a new hire, the school shall conspicuously include the following disclosure
3 statement on each application or renewal form provided by the employer to an
4 applicant for a certified position: "STATE LAW AUTHORIZES THIS SCHOOL
5 TO REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK AND A
6 LETTER FROM THE CABINET FOR HEALTH AND FAMILY SERVICES
7 STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS
8 OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A
9 BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS AS A
10 CONDITION OF EMPLOYMENT FOR THIS TYPE OF POSITION."

11 (a) For purposes of this subsection, "contractor" means an adult who is permitted
12 access to school grounds pursuant to a current or prospective contractual
13 agreement with the school, school board, school district, or school-affiliated
14 entity, at times when students are present. The term "contractor" includes an
15 employee of a contractor.

16 (b) 1. The school or school board may require a contractor who works on
17 school premises during school hours and may require a contractor who
18 does not have contact with students, a volunteer, or a visitor to submit to
19 a national criminal history check by the Federal Bureau of Investigation
20 and state criminal history background check by the Department of
21 Kentucky State Police or Administrative Office of the Courts and
22 require a letter from the Cabinet for Health and Family Services stating
23 that the person has no findings of substantiated child abuse or neglect
24 found through a background check of child abuse and neglect records
25 maintained by the Cabinet for Health and Family Services.

26 2. Any request for records under this section shall be on an applicant
27 fingerprint card provided by the Department of Kentucky State Police if

1 required. The results of the state criminal background check and the
2 results of the national criminal history background check, if requested,
3 shall be sent to the hiring superintendent. If a background check of child
4 abuse and neglect records is requested, the person seeking employment
5 shall provide to the hiring superintendent a letter from the Cabinet for
6 Health and Family Services stating the person has no findings of
7 substantiated child abuse or neglect found through a background check
8 of child abuse and neglect records maintained by the Cabinet for Health
9 and Family Services.

10 3. Any fee charged by the Department of Kentucky State Police shall be an
11 amount no greater than the actual cost of processing the request and
12 conducting the search.

13 (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter
14 may choose not to employ any person who is a violent offender as defined by
15 KRS 17.165(2), has been convicted of a sex crime which is classified as a
16 felony as defined by KRS 17.165(1), or has committed a violent crime as
17 defined in KRS 17.165(3) or persons with a substantiated finding of child
18 abuse or neglect in records maintained by the Cabinet for Health and Family
19 Services. A nonpublic school may employ, at its discretion, persons convicted
20 of sex crimes classified as a misdemeanor.

21 (b) If a school term has begun and a certified position remains unfilled or if a
22 vacancy occurs during a school term, a nonpublic school implementing this
23 chapter may employ an individual who will have supervisory or disciplinary
24 authority over minors on probationary status pending receipt of a criminal
25 history background check or the receipt of a letter, provided by the individual,
26 from the Cabinet for Health and Family Services stating that the person has no
27 findings of substantiated child abuse or neglect found through a background

1 check of child abuse and neglect records maintained by the Cabinet for Health
2 and Family Services.

3 (c) Employment at a nonpublic school implementing this chapter may be
4 contingent on the receipt of a criminal history background check documenting
5 a record as a violent offender, of a sex crime, or of a violent crime as defined
6 in KRS 17.165 or the receipt of a letter, provided by the individual, from the
7 Cabinet for Health and Family Services stating that the person has no findings
8 of substantiated child abuse or neglect found through a background check of
9 child abuse and neglect records maintained by the Cabinet for Health and
10 Family Services.

11 (d) Nonpublic schools implementing this chapter may terminate probationary
12 employment under this section upon receipt of a criminal history background
13 check documenting a record as a violent offender, of a sex crime, or of a
14 violent crime as defined in KRS 17.165 or the receipt of a letter, provided by
15 the individual, from the Cabinet for Health and Family Services stating that
16 the person has no findings of substantiated child abuse or neglect found
17 through a background check of child abuse and neglect records maintained by
18 the Cabinet for Health and Family Services.

19 (4) The form for requesting a letter, required by this section, stating an employee is
20 clear to hire based on a background check of child abuse and neglect records
21 maintained by the Cabinet for Health and Family Services shall be made available
22 on the Cabinet for Health and Family Services Web site.

23 ➔Section 4. KRS 199.011 is amended to read as follows:

24 As used in this chapter, unless the context otherwise requires:

25 (1) "Adoption worker" means an employee of the cabinet so designated by the secretary
26 for health and family services, a social worker employed by a county or city who
27 has been approved by the cabinet to handle, under its supervision, adoption

1 placement services to children, or a social worker employed by or under contract to
2 a child-placing adoption agency;

3 (2) "Adult adopted person" means any adopted person who is twenty-one (21) years of
4 age or older;

5 (3) **"Boarding school" has the same meaning as in Section 1 of this Act;**

6 (4) "Cabinet" means the Cabinet for Health and Family Services;

7 (5)~~(4)~~ "Child" means any person who has not reached his eighteenth birthday;

8 (6)~~(5)~~ "Child-caring facility" means any institution or group home, including
9 institutions and group homes that are publicly operated, providing residential care
10 on a twenty-four (24) hour basis to children, not related by blood, adoption, or
11 marriage to the person maintaining the facility, other than an institution or group
12 home certified by an appropriate agency as operated primarily for educational or
13 medical purposes, or a residential program operated or contracted by the
14 Department of Juvenile Justice that maintains accreditation, or obtains accreditation
15 within two (2) years of opening from a nationally recognized accrediting
16 organization. **"Child-caring facility" does not include boarding schools or church**
17 **boarding schools as defined in Section 1 of this Act;**

18 (7)~~(6)~~ "Child-placing agency" means any agency licensed by the cabinet, which
19 supervises the placement of children in foster family homes or child-caring
20 facilities, or which places children for adoption;

21 (8)~~(7)~~ **"Church boarding school" has the same meaning as in Section 1 of this**
22 **Act;**

23 (9) "Department" means the Department for Community Based Services;

24 (10)~~(8)~~ "Family rehabilitation home" means a child-caring facility for appropriate
25 families and comprising not more than twelve (12) children and two (2) staff
26 persons;

27 (11)~~(9)~~ "Fictive kin" means an individual who is not related by birth, adoption, or

1 marriage to a child, but who has an emotionally significant relationship with the
2 child;

3 (12)~~((10))~~ "Foster family home" means a private home in which children are placed for
4 foster family care under supervision of the cabinet or of a licensed child-placing
5 agency;

6 (13)~~((11))~~ "Group home" means a homelike facility, excluding Department of Juvenile
7 Justice-operated or -contracted facilities, for not more than eight (8) foster children,
8 not adjacent to or part of an institutional campus, operated by a sponsoring agency
9 for children who may participate in community activities and use community
10 resources;

11 (14)~~((12))~~ "Institution" means a child-caring facility providing care or maintenance for
12 nine (9) or more children;

13 (15)~~((13))~~ "Placement services" means those social services customarily provided by a
14 licensed child-placing or a public agency, which are necessary for the arrangement
15 and placement of children in foster family homes, child-placing facilities, or
16 adoptive homes. Placement services are provided through a licensed child-placing
17 or a public agency for children who cannot be cared for by their biological parents
18 and who need and can benefit from new and permanent family ties established
19 through legal adoption. Licensed child-placing agencies and public agencies have a
20 responsibility to act in the best interests of children, biological parents, and adoptive
21 parents by providing social services to all the parties involved in an adoption;

22 (16)~~((14))~~ "Rap back system" means a system that enables an authorized entity to receive
23 ongoing status notifications of any criminal history from the Department of
24 Kentucky State Police or the Federal Bureau of Investigation reported on an
25 individual whose fingerprints are registered in the system, upon approval and
26 implementation of the system;

27 (17)~~((15))~~ "Reasonable and prudent parent standard" has the same meaning as in 42

1 U.S.C. sec. 675(10);

2 ~~(18)~~~~(16)~~ "Secretary" means the secretary for health and family services; and

3 ~~(19)~~~~(17)~~ "Voluntary and informed consent" means that at the time of the execution of
4 the consent, the consenting person was fully informed of the legal effect of the
5 consent, that the consenting person was not given or promised anything of value
6 except those expenses allowable under KRS 199.590(6), that the consenting person
7 was not coerced in any way to execute the consent, and that the consent was
8 voluntarily and knowingly given. If at the time of the execution of the consent the
9 consenting person was represented by independent legal counsel, there shall be a
10 presumption that the consent was voluntary and informed. The consent shall be in
11 writing, signed and sworn to by the consenting person, and include the following:

- 12 (a) Date, time, and place of the execution of the consent;
- 13 (b) Name of the child, if any, to be adopted, and the date and place of the child's
14 birth;
- 15 (c) Consenting person's relationship to the child;
- 16 (d) Identity of the proposed adoptive parents or a statement that the consenting
17 person does not desire to know the identification of the proposed adoptive
18 parents;
- 19 (e) 1. A statement that the consenting person understands that the consent will
20 be final and irrevocable under this paragraph unless withdrawn under
21 this paragraph.
- 22 2. If placement approval by the secretary is required, the voluntary and
23 informed consent shall become final and irrevocable twenty (20) days
24 after the later of the placement approval or the execution of the
25 voluntary and informed consent. This consent may be withdrawn only by
26 written notification sent to the proposed adoptive parent or the attorney
27 for the proposed adoptive parent on or before the twentieth day by

- 1 certified or registered mail and also by first-class mail.
- 2 3. If placement approval by the secretary is not required, the voluntary and
- 3 informed consent shall become final and irrevocable twenty (20) days
- 4 after the execution of the voluntary and informed consent. This consent
- 5 may be withdrawn only by written notification sent to the proposed
- 6 adoptive parent or the attorney for the proposed adoptive parent on or
- 7 before the twentieth day by certified or registered mail and also by first-
- 8 class mail;
- 9 (f) Disposition of the child if the adoption is not adjudged;
- 10 (g) A statement that the consenting person has received a completed and signed
- 11 copy of the consent at the time of the execution of the consent;
- 12 (h) Name and address of the person who prepared the consent, name and address
- 13 of the person who reviewed and explained the consent to the consenting
- 14 person, and a verified statement from the consenting person that the consent
- 15 has been reviewed with and fully explained to the consenting person; and
- 16 (i) Total amount of the consenting person's legal fees, if any, for any purpose
- 17 related to the execution of the consent and the source of payment of the legal
- 18 fees.