

1 AN ACT relating to school based decision making councils.

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) "School" means an elementary, middle, or high school ~~secondary educational~~  
10 ~~institution~~ that is under the administrative control of a principal and is not a  
11 program or part of another school. The term "school" does not include district-  
12 operated schools that are:

- 13 1. Exclusively vocational-technical, special education, or preschool  
14 programs;
- 15 2. Instructional programs operated in institutions or schools outside of the  
16 district; or
- 17 3. Alternative schools designed to provide services to at-risk populations  
18 with unique needs;

19 (c) "Teacher" means any person for whom certification is required as a basis of  
20 employment in the public schools of the state, with the exception of principals  
21 and assistant principals; and

22 (d) "Parent" means:

- 23 1. A parent, stepparent, or foster parent of a student; or  
24 2. A person who has legal custody of a student pursuant to a court order  
25 and with whom the student resides.

26 (2) Each local board of education shall adopt a policy for implementing school-based  
27 decision making in the district which shall include, but not be limited to, a

1 description of how the district's policies, including those developed pursuant to  
2 KRS 160.340, have been amended to allow the professional staff members of a  
3 school to be involved in the decision making process as they work to meet  
4 educational goals established in KRS 158.645 and 158.6451. The policy may  
5 include a requirement that each school council make an annual report at a public  
6 meeting of the board describing the school's progress in meeting the educational  
7 goals set forth in KRS 158.6451 and district goals established by the board. The  
8 policy shall also address and comply with the following:

9 (a) Except as provided in paragraph (b)2. and 3. of this subsection, each  
10 participating school shall form a school council composed of two (2) parents,  
11 three (3) teachers, and the principal or administrator. The membership of the  
12 council may be increased, but it may only be increased proportionately. A  
13 parent representative on the council shall not be an employee or a relative of  
14 an employee of the school in which that parent serves, nor shall the parent  
15 representative be an employee or a relative of an employee in the district  
16 administrative offices. A parent representative shall not be a local board  
17 member or a board member's spouse. None of the members shall have a  
18 conflict of interest pursuant to KRS Chapter 45A, except the salary paid to  
19 district employees;

20 (b) 1. The teacher representatives shall be elected for one (1) year terms by a  
21 majority of the teachers. A teacher elected to a school council shall not  
22 be involuntarily transferred during his or her term of office. The parent  
23 representatives shall be elected for one (1) year terms. The parent  
24 members shall be elected by the parents of students preregistered to  
25 attend the school during the term of office in an election conducted by  
26 the parent and teacher organization of the school or, if none exists, the  
27 largest organization of parents formed for this purpose. A school

1 council, once elected, may adopt a policy setting different terms of  
2 office for parent and teacher members subsequently elected. The  
3 principal shall be the chair of the school council.

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

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

14 b. Allowing the teachers in the building to select one (1) minority  
15 teacher to serve as a teacher member on the council. If there are no  
16 minority teachers who are members of the faculty, an additional  
17 teacher member shall be elected by a majority of all teachers. Term  
18 limitations shall not apply for a minority teacher member who is  
19 the only minority on faculty;

20 3. a. If the participating school is a high school, the council shall  
21 have at least one (1) student representative.

22 b. A student representative on the council shall not be an employee  
23 or a relative of an employee of the high school in which that  
24 student serves. The student representative shall not be an  
25 employee or a relative of an employee in the school district  
26 administrative office.

27 c. A student representative shall be elected for a one (1) year term

1 by a majority of votes of the students preregistered to attend the  
2 high school for the term of office.

3 d. A student representative shall act in an advisory capacity, but  
4 shall not vote.

5 e. A student representative shall be allowed to participate as a  
6 nonvoting member of the council for all duties stated in this  
7 section, except those outlined in paragraph (h) of this  
8 subsection.

9 (c) 1. The school council shall have the responsibility to set school policy  
10 consistent with district board policy which shall provide an environment  
11 to enhance the students' achievement and help the school meet the goals  
12 established by KRS 158.645 and 158.6451. The principal shall be the  
13 primary administrator and the instructional leader of the school, and  
14 with the assistance of the total school staff shall administer the policies  
15 established by the school council and the local board.

16 2. If a school council establishes committees, it shall adopt a policy to  
17 facilitate the participation of interested persons, including, but not  
18 limited to, classified employees and parents. The policy shall include the  
19 number of committees, their jurisdiction, composition, and the process  
20 for membership selection;

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

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

- 1 (f) After receiving notification of the funds available for the school from the local  
2 board, the school council shall determine, within the parameters of the total  
3 available funds, the number of persons to be employed in each job  
4 classification at the school. The council may make personnel decisions on  
5 vacancies occurring after the school council is formed but shall not have the  
6 authority to recommend transfers or dismissals;
- 7 (g) The school council shall determine which textbooks, instructional materials,  
8 and student support services shall be provided in the school. Subject to  
9 available resources, the local board shall allocate an appropriation to each  
10 school that is adequate to meet the school's needs related to instructional  
11 materials and school-based student support services, as determined by the  
12 school council. The school council shall consult with the school media  
13 librarian on the maintenance of the school library media center, including the  
14 purchase of instructional materials, information technology, and equipment;
- 15 (h) Personnel decisions at the school level shall be as follows:
- 16 1. From a list of qualified applicants submitted by the local superintendent,  
17 the principal at the participating school shall select personnel to fill  
18 vacancies, after consultation with the school council, consistent with  
19 paragraph (i)11. of this subsection. The superintendent shall provide  
20 additional applicants to the principal upon request when qualified  
21 applicants are available. The superintendent may forward to the school  
22 council the names of qualified applicants who have pending certification  
23 from the Education Professional Standards Board based on recent  
24 completion of preparation requirements, out-of-state preparation, or  
25 alternative routes to certification pursuant to KRS 161.028 and 161.048.  
26 Requests for transfer shall conform to any employer-employee bargained  
27 contract which is in effect;



- 1                   iii. The council shall have the option to interview the  
2                   recommended candidate while in closed session; and
- 3                   iv. After any discussion, at the conclusion of the closed session,  
4                   the council shall decide, in a public meeting by majority vote  
5                   of the membership of the council, whether to accept or reject  
6                   the recommended principal candidate;
- 7                   c. If the recommended candidate is selected, and the recommended  
8                   candidate accepts the offer, the name of the candidate shall be  
9                   made public during the next meeting in open session;
- 10                  d. i. If the recommended candidate is not accepted by the school  
11                  council under subdivision b. of this subparagraph, then the  
12                  process set forth in subdivision a. of this subparagraph shall  
13                  apply.
- 14                  ii. The confidentially recommended candidate's name and the  
15                  discussions of the closed session shall remain confidential  
16                  under KRS 61.810(1)(f), and any documents used or  
17                  generated during the closed meeting shall not be subject to an  
18                  open records request as provided in KRS 61.878(1)(i) and (j).
- 19                  iii. A recommended candidate who believes a violation of this  
20                  subdivision has occurred may file a written complaint with  
21                  the Kentucky Board of Education.
- 22                  iv. A school council member who is found to have disclosed  
23                  confidential information regarding the proceeding of the  
24                  closed session shall be subject to removal from the school  
25                  council by the Kentucky Board of Education under  
26                  subsection (9)(e) of this section;
- 27                  3. Personnel decisions made at the school level under the authority of

- 1           subparagraphs 1. and 2. of this paragraph shall be binding on the  
2           superintendent who completes the hiring process;
- 3           4. Applicants subsequently employed shall provide evidence that they are  
4           certified prior to assuming the duties of a position in accordance with  
5           KRS 161.020; and
- 6           5. Notwithstanding other provisions of this paragraph, if the applicant is  
7           the spouse of the superintendent and the applicant meets the service  
8           requirements of KRS 160.380(2)(e), the applicant shall only be  
9           employed upon the recommendation of the principal and the approval of  
10          a majority vote of the school council;
- 11          (i) The school council shall adopt a policy to be implemented by the principal in  
12          the following additional areas:
- 13               1. Determination of curriculum, including needs assessment, curriculum  
14               development and responsibilities under KRS 158.6453(19);
- 15               2. Assignment of all instructional and noninstructional staff time;
- 16               3. Assignment of students to classes and programs within the school;
- 17               4. Determination of the schedule of the school day and week, subject to the  
18               beginning and ending times of the school day and school calendar year  
19               as established by the local board;
- 20               5. Determination of use of school space during the school day related to  
21               improving classroom teaching and learning;
- 22               6. Planning and resolution of issues regarding instructional practices;
- 23               7. Selection and implementation of discipline and classroom management  
24               techniques as a part of a comprehensive school safety plan, including  
25               responsibilities of the student, parent, teacher, counselor, and principal;
- 26               8. Selection of extracurricular programs and determination of policies  
27               relating to student participation based on academic qualifications and



- 1 attendance requirements, program evaluation, and supervision;
- 2 9. Adoption of an emergency plan as required in KRS 158.162;
- 3 10. Procedures, consistent with local school board policy, for determining  
4 alignment with state standards, technology utilization, and program  
5 appraisal; and
- 6 11. Procedures to assist the council with consultation in the selection of  
7 personnel by the principal, including but not limited to meetings,  
8 timelines, interviews, review of written applications, and review of  
9 references. Procedures shall address situations in which members of the  
10 council are not available for consultation; and
- 11 (j) Each school council shall annually review data as shown on state and local  
12 student assessments required under KRS 158.6453. The data shall include but  
13 not be limited to information on performance levels of all students tested, and  
14 information on the performance of students disaggregated by race, gender,  
15 disability, and participation in the federal free and reduced price lunch  
16 program. After completing the review of data, each school council, with the  
17 involvement of parents, faculty, and staff, shall develop and adopt a plan to  
18 ensure that each student makes progress toward meeting the goals set forth in  
19 KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan  
20 to the superintendent and local board of education for review as described in  
21 KRS 160.340. The Kentucky Department of Education shall provide each  
22 school council the data needed to complete the review required by this  
23 paragraph no later than October 1 of each year. If a school does not have a  
24 council, the review shall be completed by the principal with the involvement  
25 of parents, faculty, and staff.
- 26 (3) The policies adopted by the local board to implement school-based decision making  
27 shall also address the following:

- 1 (a) School budget and administration, including: discretionary funds; activity and  
2 other school funds; funds for maintenance, supplies, and equipment; and  
3 procedures for authorizing reimbursement for training and other expenses;
- 4 (b) Assessment of individual student progress, including testing and reporting of  
5 student progress to students, parents, the school district, the community, and  
6 the state;
- 7 (c) School improvement plans, including the form and function of strategic  
8 planning and its relationship to district planning, as well as the school safety  
9 plan and requests for funding from the Center for School Safety under KRS  
10 158.446;
- 11 (d) Professional development plans developed pursuant to KRS 156.095;
- 12 (e) Parent, citizen, and community participation including the relationship of the  
13 council with other groups;
- 14 (f) Cooperation and collaboration within the district, with other districts, and with  
15 other public and private agencies;
- 16 (g) Requirements for waiver of district policies;
- 17 (h) Requirements for record keeping by the school council; and
- 18 (i) A process for appealing a decision made by a school council.
- 19 (4) In addition to the authority granted to the school council in this section, the local  
20 board may grant to the school council any other authority permitted by law. The  
21 board shall make available liability insurance coverage for the protection of all  
22 members of the school council from liability arising in the course of pursuing their  
23 duties as members of the council.
- 24 (5) All schools shall implement school-based decision making in accordance with this  
25 section and with the policy adopted by the local board pursuant to this section.  
26 Upon favorable vote of a majority of the faculty at the school and a majority of at  
27 least twenty-five (25) voting parents of students enrolled in the school, a school

1 meeting its goal as determined by the Department of Education pursuant to KRS  
2 158.6455 may apply to the Kentucky Board of Education for exemption from the  
3 requirement to implement school-based decision making, and the state board shall  
4 grant the exemption. The voting by the parents on the matter of exemption from  
5 implementing school-based decision making shall be in an election conducted by  
6 the parent and teacher organization of the school or, if none exists, the largest  
7 organization of parents formed for this purpose. Notwithstanding the provisions of  
8 this section, a local school district shall not be required to implement school-based  
9 decision making if the local school district contains only one (1) school.

10 (6) The Department of Education shall provide professional development activities to  
11 assist schools in implementing school-based decision making. School council  
12 members elected for the first time shall complete a minimum of six (6) clock hours  
13 of training in the process of school-based decision making, no later than thirty (30)  
14 days after the beginning of the service year for which they are elected to serve.  
15 School council members who have served on a school council at least one (1) year  
16 shall complete a minimum of three (3) clock hours of training in the process of  
17 school-based decision making no later than one hundred twenty (120) days after the  
18 beginning of the service year for which they are elected to serve. Experienced  
19 members may participate in the training for new members to fulfill their training  
20 requirement. School council training required under this subsection shall be  
21 conducted by trainers endorsed by the Department of Education. By November 1 of  
22 each year, the principal through the local superintendent shall forward to the  
23 Department of Education the names and addresses of each council member and  
24 verify that the required training has been completed. School council members  
25 elected to fill a vacancy shall complete the applicable training within thirty (30)  
26 days of their election.

27 (7) A school that chooses to have school-based decision making but would like to be

1 exempt from the administrative structure set forth by this section may develop a  
2 model for implementing school-based decision making, including but not limited to  
3 a description of the membership, organization, duties, and responsibilities of a  
4 school council. The school shall submit the model through the local board of  
5 education to the commissioner of education and the Kentucky Board of Education,  
6 which shall have final authority for approval. The application for approval of the  
7 model shall show evidence that it has been developed by representatives of the  
8 parents, students, certified personnel, and the administrators of the school and that  
9 two-thirds (2/3) of the faculty have agreed to the model.

10 (8) The Kentucky Board of Education, upon recommendation of the commissioner of  
11 education, shall adopt by administrative regulation a formula by which school  
12 district funds shall be allocated to each school council. Included in the school  
13 council formula shall be an allocation for professional development that is at least  
14 sixty-five percent (65%) of the district's per pupil state allocation for professional  
15 development for each student in average daily attendance in the school. The school  
16 council shall plan professional development in compliance with requirements  
17 specified in KRS 156.095, except as provided in KRS 158.649. School councils of  
18 small schools shall be encouraged to work with other school councils to maximize  
19 professional development opportunities.

20 (9) (a) No board member, superintendent of schools, district employee, or member of  
21 a school council shall intentionally engage in a pattern of practice which is  
22 detrimental to the successful implementation of or circumvents the intent of  
23 school-based decision making to allow the professional staff members of a  
24 school and parents to be involved in the decision making process in working  
25 toward meeting the educational goals established in KRS 158.645 and  
26 158.6451 or to make decisions in areas of policy assigned to a school council  
27 pursuant to paragraph (i) of subsection (2) of this section.

- 1 (b) An affected party who believes a violation of this subsection has occurred may  
2 file a written complaint with the Office of Education Accountability. The  
3 office shall investigate the complaint and resolve the conflict, if possible, or  
4 forward the matter to the Kentucky Board of Education.
- 5 (c) The Kentucky Board of Education shall conduct a hearing in accordance with  
6 KRS Chapter 13B for complaints referred by the Office of Education  
7 Accountability.
- 8 (d) If the state board determines a violation has occurred, the party shall be  
9 subject to reprimand. A second violation of this subsection may be grounds  
10 for removing a superintendent, a member of a school council, or school board  
11 member from office or grounds for dismissal of an employee for misconduct  
12 in office or willful neglect of duty.
- 13 (e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the  
14 state board determines a violation of the confidentiality requirements set forth  
15 in subsection (2)(h)2. of this section by a school council member has  
16 occurred, the state board shall remove the member from the school council,  
17 and the member shall be permanently prohibited from serving on any school  
18 council in the district.
- 19 (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or  
20 maintain a school-based decision making council and the powers, duties, and  
21 authority granted to a school council may be rescinded or the school council's role  
22 may be advisory if the commissioner of education or the Kentucky Board of  
23 Education takes action under KRS 160.346.
- 24 (11) Each school council of a school containing grades K-5 or any combination thereof,  
25 or if there is no school council, the principal, shall develop and implement a  
26 wellness policy that includes moderate to vigorous physical activity each day and  
27 encourages healthy choices among students. The policy may permit physical activity

1 to be considered part of the instructional day, not to exceed thirty (30) minutes per  
2 day, or one hundred and fifty (150) minutes per week. Each school council, or if  
3 there is no school council, the principal, shall adopt an assessment tool to determine  
4 each child's level of physical activity on an annual basis. The council or principal  
5 may utilize an existing assessment program. The Kentucky Department of  
6 Education shall make available a list of available resources to carry out the  
7 provisions of this subsection. The department shall report to the Legislative  
8 Research Commission no later than November 1 of each year on how the schools  
9 are providing physical activity under this subsection and on the types of physical  
10 activity being provided. The policy developed by the school council or principal  
11 shall comply with provisions required by federal law, state law, or local board  
12 policy.

13 (12) Discretionary authority exercised under subsection (2)(h)2.b. of this section shall  
14 not violate provisions of any employer-employee bargained contract existing  
15 between the district and its employees.