



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2016 REGULAR SESSION

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HOUSE BILL NO. 184

AS ENACTED

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ALISON LUNDERMAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adler

1 AN ACT relating to 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) "School" means an elementary or secondary educational institution that is  
10 under the administrative control of a principal and is not a program or part of  
11 another school. The term "school" does not include district-operated schools  
12 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. of this subsection, each participating  
10 school shall form a school council composed of two (2) parents, three (3)  
11 teachers, and the principal or administrator. The membership of the council  
12 may be increased, but it may only be increased proportionately. A parent  
13 representative on the council shall not be an employee or a relative of an  
14 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 (c) 1. The school council shall have the responsibility to set school policy  
 21 consistent with district board policy which shall provide an environment  
 22 to enhance the students' achievement and help the school meet the goals  
 23 established by KRS 158.645 and 158.6451. The principal shall be the  
 24 primary administrator and the instructional leader of the school, and  
 25 with the assistance of the total school staff shall administer the policies  
 26 established by the school council and the local board.

27 2. If a school council establishes committees, it shall adopt a policy to

1 facilitate the participation of interested persons, including, but not  
2 limited to, classified employees and parents. The policy shall include the  
3 number of committees, their jurisdiction, composition, and the process  
4 for membership selection;

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

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

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

18 (g) The school council shall determine which textbooks, instructional materials,  
19 and student support services shall be provided in the school. Subject to  
20 available resources, the local board shall allocate an appropriation to each  
21 school that is adequate to meet the school's needs related to instructional  
22 materials and school-based student support services, as determined by the  
23 school council. The school council shall consult with the school media  
24 librarian on the maintenance of the school library media center, including the  
25 purchase of instructional materials, information technology, and equipment;

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

27 1. From a list of qualified applicants submitted by the local superintendent,

1 the principal at the participating school shall select personnel to fill  
2 vacancies, after consultation with the school council, consistent with  
3 paragraph (i)11. of this subsection. The superintendent shall provide  
4 additional applicants to the principal upon request when qualified  
5 applicants are available. The superintendent may forward to the school  
6 council the names of qualified applicants who have pending certification  
7 from the Education Professional Standards Board based on recent  
8 completion of preparation requirements, out-of-state preparation, or  
9 alternative routes to certification pursuant to KRS 161.028 and 161.048.  
10 Requests for transfer shall conform to any employer-employee bargained  
11 contract which is in effect;

- 12 2. a. i. If the vacancy to be filled is the position of principal, the  
13 outgoing principal shall not serve on the council during the  
14 principal selection process. The superintendent or the  
15 superintendent's designee shall serve as the chair of the  
16 council for the purpose of the hiring process and shall have  
17 voting rights during the selection process.

18 ii. *Except as provided in subdivision b. of this subparagraph,*

19 the council shall have access to the applications of all  
20 persons certified for the position. The principal shall be  
21 elected on a majority vote of the membership of the council.  
22 No principal who has been previously removed from a  
23 position in the district for cause may be considered for  
24 appointment as principal. The school council shall receive  
25 training in recruitment and interviewing techniques prior to  
26 carrying out the process of selecting a principal. The council  
27 shall select the trainer to deliver the training;

- 1                   **b. If a school council is in a county school district in a county with**  
2                   **a consolidated local government adopted under KRS Chapter**  
3                   **67C, then an alternative principal selection process may be used**  
4                   **as follows:**
- 5                   **i. Prior to a meeting called to select a principal, all school**  
6                   **council members shall receive informational materials**  
7                   **regarding Kentucky open records and open meetings laws**  
8                   **and sign a nondisclosure agreement forbidding the sharing**  
9                   **of information shared and discussions held in the closed**  
10                   **session;**
- 11                   **ii. The superintendent shall convene the school council and**  
12                   **move into closed session as provided in KRS 61.810(1)(f) to**  
13                   **confidentially recommend a candidate;**
- 14                   **iii. The council shall have the option to interview the**  
15                   **recommended candidate while in closed session; and**
- 16                   **iv. After any discussion, at the conclusion of the closed**  
17                   **session, the council shall decide, in a public meeting by**  
18                   **majority vote of the membership of the council, whether to**  
19                   **accept or reject the recommended principal candidate;**
- 20                   **c. If the recommended candidate is selected, and the recommended**  
21                   **candidate accepts the offer, the name of the candidate shall be**  
22                   **made public during the next meeting in open session;**
- 23                   **d. i. If the recommended candidate is not accepted by the school**  
24                   **council under subdivision b. of this subparagraph, then the**  
25                   **process set forth in subdivision a. of this subparagraph**  
26                   **shall apply.**
- 27                   **ii. The confidentially recommended candidate's name and the**

1 discussions of the closed session shall remain confidential  
 2 under KRS 61.810(1)(f), and any documents used or  
 3 generated during the closed meeting shall not be subject to  
 4 an open records request as provided in KRS 61.878(1)(i)  
 5 and (j).

6 iii. A recommended candidate who believes a violation of this  
 7 subdivision has occurred may file a written complaint with  
 8 the Kentucky Board of Education.

9 iv. A school council member who is found to have disclosed  
 10 confidential information regarding the proceeding of the  
 11 closed session shall be subject to removal from the school  
 12 council by the Kentucky Board of Education under  
 13 subsection (9)(e) of this section;

- 14 3. Personnel decisions made at the school level under the authority of  
 15 subparagraphs 1., 2., and 4. of this paragraph shall be binding on the  
 16 superintendent who completes the hiring process;
- 17 4. If the vacancy for the position of principal occurs in a school that has an  
 18 index score that places it in the lowest one-third (1/3) of all schools  
 19 below the assistance line and the school has completed a scholastic audit  
 20 under KRS 158.6455 that includes findings of lack of effectiveness of  
 21 the principal and school council, the superintendent shall appoint the  
 22 principal after consulting with the school council;
- 23 5. Applicants subsequently employed shall provide evidence that they are  
 24 certified prior to assuming the duties of a position in accordance with  
 25 KRS 161.020; and
- 26 6. Notwithstanding other provisions of this paragraph, if the applicant is  
 27 the spouse of the superintendent and the applicant meets the service

1 requirements of KRS 160.380(2)(e), the applicant shall only be  
2 employed upon the recommendation of the principal and the approval of  
3 a majority vote of the school council;

4 (i) The school council shall adopt a policy to be implemented by the principal in  
5 the following additional areas:

- 6 1. Determination of curriculum, including needs assessment, curriculum  
7 development and responsibilities under KRS 158.6453(7);
- 8 2. Assignment of all instructional and noninstructional staff time;
- 9 3. Assignment of students to classes and programs within the school;
- 10 4. Determination of the schedule of the school day and week, subject to the  
11 beginning and ending times of the school day and school calendar year  
12 as established by the local board;
- 13 5. Determination of use of school space during the school day;
- 14 6. Planning and resolution of issues regarding instructional practices;
- 15 7. Selection and implementation of discipline and classroom management  
16 techniques as a part of a comprehensive school safety plan, including  
17 responsibilities of the student, parent, teacher, counselor, and principal;
- 18 8. Selection of extracurricular programs and determination of policies  
19 relating to student participation based on academic qualifications and  
20 attendance requirements, program evaluation, and supervision;
- 21 9. Adoption of an emergency plan as required in KRS 158.162;
- 22 10. Procedures, consistent with local school board policy, for determining  
23 alignment with state standards, technology utilization, and program  
24 appraisal; and
- 25 11. Procedures to assist the council with consultation in the selection of  
26 personnel by the principal, including but not limited to meetings,  
27 timelines, interviews, review of written applications, and review of

1 references. Procedures shall address situations in which members of the  
2 council are not available for consultation; and

3 (j) Each school council shall annually review data as shown on state and local  
4 student assessments and program assessments required under KRS 158.6453.  
5 The data shall include but not be limited to information on performance levels  
6 of all students tested, and information on the performance of students  
7 disaggregated by race, gender, disability, and participation in the federal free  
8 and reduced price lunch program. After completing the review of data, each  
9 school council, with the involvement of parents, faculty, and staff, shall  
10 develop and adopt a plan to ensure that each student makes progress toward  
11 meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of  
12 each year and submit the plan to the superintendent and local board of  
13 education for review as described in KRS 160.340. The Kentucky Department  
14 of Education shall provide each school council the data needed to complete  
15 the review required by this paragraph no later than November 1 of each year.  
16 If a school does not have a council, the review shall be completed by the  
17 principal with the involvement of parents, faculty, and staff.

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

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

23 (b) Assessment of individual student progress, including testing and reporting of  
24 student progress to students, parents, the school district, the community, and  
25 the state;

26 (c) School improvement plans, including the form and function of strategic  
27 planning and its relationship to district planning, as well as the school safety

- 1 plan and requests for funding from the Center for School Safety under KRS  
2 158.446;
- 3 (d) Professional development plans developed pursuant to KRS 156.095;
- 4 (e) Parent, citizen, and community participation including the relationship of the  
5 council with other groups;
- 6 (f) Cooperation and collaboration within the district, with other districts, and with  
7 other public and private agencies;
- 8 (g) Requirements for waiver of district policies;
- 9 (h) Requirements for record keeping by the school council; and
- 10 (i) A process for appealing a decision made by a school council.
- 11 (4) In addition to the authority granted to the school council in this section, the local  
12 board may grant to the school council any other authority permitted by law. The  
13 board shall make available liability insurance coverage for the protection of all  
14 members of the school council from liability arising in the course of pursuing their  
15 duties as members of the council.
- 16 (5) All schools shall implement school-based decision making in accordance with this  
17 section and with the policy adopted by the local board pursuant to this section.  
18 Upon favorable vote of a majority of the faculty at the school and a majority of at  
19 least twenty-five (25) voting parents of students enrolled in the school, a school  
20 meeting its goal as determined by the Department of Education pursuant to KRS  
21 158.6455 may apply to the Kentucky Board of Education for exemption from the  
22 requirement to implement school-based decision making, and the state board shall  
23 grant the exemption. The voting by the parents on the matter of exemption from  
24 implementing school-based decision making shall be in an election conducted by  
25 the parent and teacher organization of the school or, if none exists, the largest  
26 organization of parents formed for this purpose. Notwithstanding the provisions of  
27 this section, a local school district shall not be required to implement school-based

- 1 decision making if the local school district contains only one (1) school.
- 2 (6) The Department of Education shall provide professional development activities to  
3 assist schools in implementing school-based decision making. School council  
4 members elected for the first time shall complete a minimum of six (6) clock hours  
5 of training in the process of school-based decision making, no later than thirty (30)  
6 days after the beginning of the service year for which they are elected to serve.  
7 School council members who have served on a school council at least one (1) year  
8 shall complete a minimum of three (3) clock hours of training in the process of  
9 school-based decision making no later than one hundred twenty (120) days after the  
10 beginning of the service year for which they are elected to serve. Experienced  
11 members may participate in the training for new members to fulfill their training  
12 requirement. School council training required under this subsection shall be  
13 conducted by trainers endorsed by the Department of Education. By November 1 of  
14 each year, the principal through the local superintendent shall forward to the  
15 Department of Education the names and addresses of each council member and  
16 verify that the required training has been completed. School council members  
17 elected to fill a vacancy shall complete the applicable training within thirty (30)  
18 days of their election.
- 19 (7) A school that chooses to have school-based decision making but would like to be  
20 exempt from the administrative structure set forth by this section may develop a  
21 model for implementing school-based decision making, including but not limited to  
22 a description of the membership, organization, duties, and responsibilities of a  
23 school council. The school shall submit the model through the local board of  
24 education to the commissioner of education and the Kentucky Board of Education,  
25 which shall have final authority for approval. The application for approval of the  
26 model shall show evidence that it has been developed by representatives of the  
27 parents, students, certified personnel, and the administrators of the school and that

1 two-thirds (2/3) of the faculty have agreed to the model.

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

12 (9) (a) No board member, superintendent of schools, district employee, or member of  
13 a school council shall intentionally engage in a pattern of practice which is  
14 detrimental to the successful implementation of or circumvents the intent of  
15 school-based decision making to allow the professional staff members of a  
16 school and parents to be involved in the decision making process in working  
17 toward meeting the educational goals established in KRS 158.645 and  
18 158.6451 or to make decisions in areas of policy assigned to a school council  
19 pursuant to paragraph (i) of subsection (2) of this section.

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

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

27 (d) If the state board determines a violation has occurred, the party shall be

1 subject to reprimand. A second violation of this subsection may be grounds  
 2 for removing a superintendent, a member of a school council, or school board  
 3 member from office or grounds for dismissal of an employee for misconduct  
 4 in office or willful neglect of duty.

5 **(e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if**  
 6 **the state board determines a violation of the confidentiality requirements set**  
 7 **forth in subsection (2)(h)2. of this section by a school council member has**  
 8 **occurred, the state board shall remove the member from the school council,**  
 9 **and the member shall be permanently prohibited from serving on any**  
 10 **school council in the district.**

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

16 (11) Each school council of a school containing grades K-5 or any combination thereof,  
 17 or if there is no school council, the principal, shall develop and implement a  
 18 wellness policy that includes moderate to vigorous physical activity each day and  
 19 encourages healthy choices among students. The policy may permit physical activity  
 20 to be considered part of the instructional day, not to exceed thirty (30) minutes per  
 21 day, or one hundred and fifty (150) minutes per week. Each school council, or if  
 22 there is no school council, the principal, shall adopt an assessment tool to determine  
 23 each child's level of physical activity on an annual basis. The council or principal  
 24 may utilize an existing assessment program. The Kentucky Department of  
 25 Education shall make available a list of available resources to carry out the  
 26 provisions of this subsection. The department shall report to the Legislative  
 27 Research Commission no later than November 1 of each year on how the schools

1 are providing physical activity under this subsection and on the types of physical  
 2 activity being provided. The policy developed by the school council or principal  
 3 shall comply with provisions required by federal law, state law, or local board  
 4 policy.

5 **(12) Discretionary authority exercised under this section by a school council of a**  
 6 **county school district in a county with a consolidated local government adopted**  
 7 **under KRS Chapter 67C shall not violate provisions of any employer-employee**  
 8 **bargained contract existing between the district and its employees.**

9 ➔Section 2. KRS 160.380 is amended to read as follows:

10 (1) As used in this section:

11 (a) "Alternative education program" means a program that exists to meet the  
 12 needs of students that cannot be addressed in a traditional classroom setting  
 13 but through the assignment of students to alternative classrooms, centers, or  
 14 campuses that are designed to remediate academic performance, improve  
 15 behavior, or provide an enhanced learning experience. Alternative education  
 16 programs do not include career or technical centers or departments;

17 (b) "Contractor" means an adult who is permitted access to school grounds  
 18 pursuant to a current or prospective contractual agreement with the school,  
 19 school board, school district, or school-affiliated entity, at times when  
 20 students are present. The term "contractor" includes an employee of a  
 21 contractor;

22 (c) "Relative" means father, mother, brother, sister, husband, wife, son, daughter,  
 23 aunt, uncle, son-in-law, and daughter-in-law; and

24 (d) "Vacancy" means any certified position opening created by the resignation,  
 25 dismissal, nonrenewal of contract, transfer, or death of a certified staff  
 26 member of a local school district, or a new position created in a local school  
 27 district for which certification is required. However, if an employer-employee

1           bargained contract contains procedures for filling certified position openings  
2           created by the resignation, dismissal, nonrenewal of contract, transfer, or death  
3           of a certified staff member, or creation of a new position for which  
4           certification is required, a vacancy shall not exist, unless certified positions  
5           remain open after compliance with those procedures.

6   (2) Except as provided in KRS 160.346:

7       (a) All appointments, promotions, and transfers of principals, supervisors,  
8       teachers, and other public school employees shall be made only by the  
9       superintendent of schools, who shall notify the board of the action taken. All  
10      employees of the local district shall have the qualifications prescribed by law  
11      and by the administrative regulations of the Kentucky Board of Education and  
12      of the employing board. Supervisors, principals, teachers, and other  
13      employees may be appointed by the superintendent for any school year at any  
14      time after February 1 preceding the beginning of the school year. No  
15      superintendent of schools shall appoint or transfer himself or herself to  
16      another position within the school district;

17      (b) When a vacancy occurs in a local school district, the superintendent shall  
18      notify the chief state school officer thirty (30) days before the position shall be  
19      filled. The chief state school officer shall keep a registry of local district  
20      vacancies which shall be made available to the public. The local school  
21      district shall post position openings in the local board office for public  
22      viewing;

23      (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent  
24      disruption of necessary instructional or support services of the school district,  
25      the superintendent may seek a waiver from the chief state school officer. If the  
26      waiver is approved, the appointment shall not be made until the person  
27      recommended for the position has been approved by the chief state school

1 officer. The chief state school officer shall respond to a district's request for  
2 waiver or for approval of an appointment within two (2) working days;

3 (d) When a vacancy occurs in a local district, the superintendent shall conduct a  
4 search to locate minority teachers to be considered for the position. The  
5 superintendent shall, pursuant to administrative regulations of the Kentucky  
6 Board of Education, report annually the district's recruitment process and the  
7 activities used to increase the percentage of minority teachers in the district;

8 (e) No relative of a superintendent of schools shall be an employee of the school  
9 district. However, this shall not apply to a relative who is a classified or  
10 certified employee of the school district for at least thirty-six (36) months  
11 prior to the superintendent assuming office, or prior to marrying a relative of  
12 the superintendent, and who is qualified for the position the employee holds.

13 A superintendent's spouse who has previously been employed in a school  
14 system~~[at least eight (8) years of service in school systems]~~ may be an  
15 employee of the school district. A superintendent's spouse who is employed  
16 under this provision shall not hold a position in which the spouse supervises  
17 certified or classified employees. A superintendent's spouse may supervise  
18 teacher aides and student teachers. However, the superintendent shall not  
19 promote a relative who continues employment under an exception of this  
20 subsection;

21 (f) No superintendent shall employ a relative of a school board member of the  
22 district, unless on July 13, 1990, the board member's relative is an employee  
23 of the district, the board member is holding office, and the relative was not  
24 initially hired by the district during the tenure of the board member. A relative  
25 employed in 1989-90 and initially hired during the tenure of a board member  
26 serving on July 13, 1990, may continue to be employed during the remainder  
27 of the board member's term. However, the superintendent shall not promote

1 any relative of a school board member who continues employment under the  
2 exception of this subsection; and

3 (g) 1. No principal's relative shall be employed in the principal's school, except  
4 a relative who is not the principal's spouse and who was employed in the  
5 principal's school during the 1989-90 school year.

6 2. No spouse of a principal shall be employed in the principal's school,  
7 except:

8 a. A principal's spouse who was employed in the principal's school  
9 during the 1989-90 school year for whom there is no position for  
10 which the spouse is certified to fill in another school operated in  
11 the district; or

12 b. A principal's spouse who was employed in the 1989-90 school year  
13 and is in a school district containing no more than one (1)  
14 elementary school, one (1) middle school, and one (1) high school.

15 3. A principal's spouse who is employed in the principal's school shall be  
16 evaluated by a school administrator other than the principal.

17 4. The provisions of KRS 161.760 shall not apply to any transfer made in  
18 order to comply with the provisions of this paragraph.

19 (3) No superintendent shall assign a certified or classified staff person to an alternative  
20 education program as part of any disciplinary action taken pursuant to KRS 161.011  
21 or 161.790 as part of a corrective action plan established pursuant to the local  
22 district evaluation plan.

23 (4) No superintendent shall employ in any position in the district any person who is a  
24 violent offender or has been convicted of a sex crime as defined by KRS 17.165  
25 which is classified as a felony. The superintendent may employ, at his discretion,  
26 persons convicted of sex crimes classified as a misdemeanor.

27 (5) (a) A superintendent shall require a national and state criminal background check

1 on all new certified hires in the school district and student teachers assigned  
2 within the district. Excluded are certified individuals who were employed in  
3 another certified position in a Kentucky school district within six (6) months  
4 of the date of hire and who had previously submitted to a national and state  
5 criminal background check for the previous employment.

6 (b) The superintendent shall require that each new certified hire and student  
7 teacher, as set forth in paragraph (a) of this subsection, submit to a national  
8 and state criminal history background check by the Department of Kentucky  
9 State Police and the Federal Bureau of Investigation.

10 (c) All fingerprints requested under this section shall be on an applicant  
11 fingerprint card provided by the Department of Kentucky State Police. The  
12 fingerprint cards shall be forwarded to the Federal Bureau of Investigation  
13 from the Department of Kentucky State Police after a state criminal  
14 background check is conducted. The results of the state and federal criminal  
15 background check shall be sent to the hiring superintendent. Any fee charged  
16 by the Department of Kentucky State Police and the Federal Bureau of  
17 Investigation shall be an amount no greater than the actual cost of processing  
18 the request and conducting the search.

19 (d) The Education Professional Standards Board may promulgate administrative  
20 regulations to impose additional qualifications to meet the requirements of  
21 Public Law 92-544.

22 (6) (a) A superintendent shall require a state criminal background check on all  
23 classified initial hires.

24 (b) The superintendent shall require that each classified initial hire submit to a  
25 state criminal history background check by the Department of Kentucky State  
26 Police. If an applicant has been a resident of Kentucky twelve (12) months or  
27 less, the superintendent may require a national criminal history background

1 check as a condition of employment.

2 (c) Any request for records under this section shall be on an applicant fingerprint  
3 card provided by the Department of Kentucky State Police. The results of the  
4 state criminal background check and the results of the national criminal  
5 history background check, if requested under the provisions of paragraph (b)  
6 of this subsection, shall be sent to the hiring superintendent. Any fee charged  
7 by the Department of Kentucky State Police shall be an amount no greater  
8 than the actual cost of processing the request and conducting the search.

9 (7) The superintendent may require a contractor, volunteer, or visitor to submit to a  
10 national and state criminal history background check by the Department of  
11 Kentucky State Police and the Federal Bureau of Investigation. Any request for  
12 records under this section shall be on an applicant fingerprint card provided by the  
13 Department of Kentucky State Police. The results of the state criminal background  
14 check and the results of the national criminal history background check, if  
15 requested, shall be sent to the hiring superintendent. Any fee charged by the  
16 Department of Kentucky State Police shall be an amount no greater than the actual  
17 cost of processing the request and conducting the search.

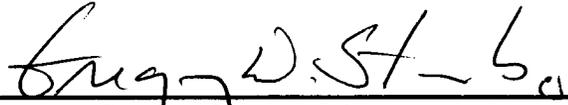
18 (8) (a) If a school term has begun and a certified or classified position remains  
19 unfilled or if a vacancy occurs during a school term, a superintendent may  
20 employ an individual, who will have supervisory or disciplinary authority over  
21 minors, on probationary status pending receipt of the criminal history  
22 background check. Application for the criminal record of a probationary  
23 employee shall be made no later than the date probationary employment  
24 begins.

25 (b) Employment shall be contingent on the receipt of the criminal history  
26 background check documenting that the probationary employee has no record  
27 of a sex crime nor as a violent offender as defined in KRS 17.165.

- 1 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,  
2 probationary employment under this section shall terminate on receipt by the  
3 school district of a criminal history background check documenting a record  
4 of a sex crime or as a violent offender as defined in KRS 17.165 and no  
5 further procedures shall be required.
- 6 (d) The provisions of KRS 161.790 shall apply to terminate employment of a  
7 certified employee on the basis of a criminal record other than a record of a  
8 sex crime or as a violent offender as defined in KRS 17.165.
- 9 (9) (a) Each application or renewal form, provided by the employer to an applicant  
10 for a classified position, shall conspicuously state the following: "FOR THIS  
11 TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE  
12 CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF  
13 EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL  
14 CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS  
15 A CONDITION OF EMPLOYMENT."
- 16 (b) Each application or renewal form, provided by the employer to an applicant  
17 for a certified position, shall conspicuously state the following: "FOR THIS  
18 TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND  
19 STATE CRIMINAL HISTORY BACKGROUND CHECK AS A  
20 CONDITION OF EMPLOYMENT."
- 21 (c) Each application form for a district position shall require the applicant to:
- 22 1. Identify the states in which he or she has maintained residency,  
23 including the dates of residency; and
  - 24 2. Provide picture identification.
- 25 (10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a  
26 nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.
- 27 (11) A school-based decision-making council parent member, as defined under KRS

1 160.345, shall submit to a state and national fingerprint-supported criminal history  
2 background check by the Department of Kentucky State Police and the Federal  
3 Bureau of Investigation. The results of the state criminal history background check  
4 and the results of the national criminal history background check, if requested, shall  
5 be sent to the district superintendent. Any fee charged by the Department of  
6 Kentucky State Police shall be an amount no greater than the actual cost of  
7 processing the request and conducting the search. A parent member may serve prior  
8 to the receipt of the criminal history background check report but shall be removed  
9 from the council on receipt by the school district of a report documenting a record  
10 of a sex crime or criminal offense against a victim who is a minor as defined in  
11 KRS 17.500 or as a violent offender as defined in KRS 17.165, and no further  
12 procedures shall be required.

- 13 (12) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,  
14 when an employee of the school district is charged with any offense which is  
15 classified as a felony, the superintendent may transfer the employee to a second  
16 position until such time as the employee is found not guilty, the charges are  
17 dismissed, the employee is terminated, or the superintendent determines that further  
18 personnel action is not required. The employee shall continue to be paid at the same  
19 rate of pay he or she received prior to the transfer. If an employee is charged with an  
20 offense outside of the Commonwealth, this provision may also be applied if the  
21 charge would have been treated as a felony if committed within the Commonwealth.  
22 Transfers shall be made to prevent disruption of the educational process and district  
23 operations and in the interest of students and staff and shall not be construed as  
24 evidence of misconduct.

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date 13 APRIL 2016