

AN ACT relating to the promotion of physical activity in schools.

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

1 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
2 READ AS FOLLOWS:

3 *(1) The Kentucky Department of Education shall promulgate an administrative*
4 *regulation in accordance with KRS Chapter 13A to implement at least thirty (30)*
5 *minutes of structured moderate-to-vigorous physical activity each day, one*
6 *hundred fifty (150) minutes per week, or the equivalent minutes per month as*
7 *required under subsection (11) of Section 2 of this Act. The physical activity, if*
8 *segmented, shall be at least ten (10) minutes in duration, be incorporated into the*
9 *existing school day, and may be considered part of the instructional day. The*
10 *physical activity may include any combination of classroom-based physical*
11 *activity, structured recess, or other structured physical activity. The*
12 *administrative regulation shall identify model programming, alternative plans,*
13 *and optional activities for integration of physical activity during the school day.*
14 *The department shall make available a list of accessible resources to carry out the*
15 *provisions of subsection (11) of Section 2 of this Act and encourage schools to*
16 *utilize and consult with certified physical education teachers in the development*
17 *of their physical activity plans.*

18 *(2) The department shall develop a reporting mechanism for schools that provides an*
19 *easy method of reporting data on physical activity and wellness programs to the*
20 *department. The reporting shall include but not be limited to:*

21 *(a) The time spent by students participating in structured physical activities*
22 *before, during, and after school;*

23 *(b) The type or name of each physical activity program used by each school;*

24 *(c) The proportion of all students participating in each type of structured*
25 *physical activity before, during, and after school;*

1 (d) Data gathered from the school assessment program, if available, including
2 the number and proportion of students who are at risk of being overweight,
3 overweight, and obese; and

4 (e) If available, the number students completing the President's Fitness
5 Challenge.

6 (3) The Department of Education shall report to the Interim Joint Committee on
7 Education and the Interim Joint Committee on Health and Welfare no later than
8 November 1 of each year. The report shall include data at least on each of the
9 items reported by schools under subsection (2) of this section, by school district.

10 ➔Section 2. KRS 160.345 is amended to read as follows:

11 (1) For the purpose of this section:

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

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

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

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

1 assistant principals, and head teachers; and

2 (d) "Parent" means:

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

4 2. A person who has legal custody of a student pursuant to a court order
5 and with whom the student resides.

6 (2) Each local board of education shall adopt a policy for implementing school-based
7 decision making in the district which shall include, but not be limited to, a
8 description of how the district's policies, including those developed pursuant to KRS
9 160.340, have been amended to allow the professional staff members of a school to
10 be involved in the decision making process as they work to meet educational goals
11 established in KRS 158.645 and 158.6451. The policy may include a requirement
12 that each school council make an annual report at a public meeting of the board
13 describing the school's progress in meeting the educational goals set forth in KRS
14 158.6451 and district goals established by the board. The policy shall also address
15 and comply with the following:

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

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

1 majority of the teachers. A teacher elected to a school council shall not
2 be involuntarily transferred during his or her term of office. The parent
3 representatives shall be elected for one (1) year terms. The parent
4 members shall be elected by the parents of students preregistered to
5 attend the school during the term of office in an election conducted by
6 the parent and teacher organization of the school or, if none exists, the
7 largest organization of parents formed for this purpose. A school council,
8 once elected, may adopt a policy setting different terms of office for
9 parent and teacher members subsequently elected. The principal or head
10 teacher shall be the chair of the school council.

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

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

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

27 (c) 1. The school council shall have the responsibility to set school policy

- 1 consistent with district board policy which shall provide an environment
2 to enhance the students' achievement and help the school meet the goals
3 established by KRS 158.645 and 158.6451. The principal or head teacher
4 shall be the primary administrator and the instructional leader of the
5 school, and with the assistance of the total school staff shall administer
6 the policies established by the school council and the local board.
- 7 2. If a school council establishes committees, it shall adopt a policy to
8 facilitate the participation of interested persons, including, but not limited
9 to, classified employees and parents. The policy shall include the number
10 of committees, their jurisdiction, composition, and the process for
11 membership selection;
- 12 (d) The school council and each of its committees shall determine the frequency of
13 and agenda for their meetings. Matters relating to formation of school councils
14 that are not provided for by this section shall be addressed by local board
15 policy;
- 16 (e) The meetings of the school council shall be open to the public and all
17 interested persons may attend. However, the exceptions to open meetings
18 provided in KRS 61.810 shall apply;
- 19 (f) After receiving notification of the funds available for the school from the local
20 board, the school council shall determine, within the parameters of the total
21 available funds, the number of persons to be employed in each job
22 classification at the school. The council may make personnel decisions on
23 vacancies occurring after the school council is formed but shall not have the
24 authority to recommend transfers or dismissals;
- 25 (g) The school council shall determine which textbooks, instructional materials,
26 and student support services shall be provided in the school. Subject to
27 available resources, the local board shall allocate an appropriation to each

1 school that is adequate to meet the school's needs related to instructional
2 materials and school-based student support services, as determined by the
3 school council. The school council shall consult with the school media librarian
4 on the maintenance of the school library media center, including the purchase
5 of instructional materials, information technology, and equipment;

6 (h) From a list of applicants submitted by the local superintendent, the principal at
7 the participating school shall select personnel to fill vacancies, after
8 consultation with the school council, consistent with subsection (2)(i)10. of
9 this section. The superintendent may forward to the school council the names
10 of qualified applicants who have pending certification from the Education
11 Professional Standards Board based on recent completion of preparation
12 requirements, out-of-state preparation, or alternative routes to certification
13 pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to
14 any employer-employee bargained contract which is in effect. If the vacancy to
15 be filled is the position of principal, the school council shall select the new
16 principal from among those persons recommended by the local superintendent.
17 When a vacancy in the school principalship occurs, the school council shall
18 receive training in recruitment and interviewing techniques prior to carrying
19 out the process of selecting a principal. The council shall select the trainer to
20 deliver the training. Personnel decisions made at the school level under the
21 authority of this subsection shall be binding on the superintendent who
22 completes the hiring process. Applicants subsequently employed shall provide
23 evidence that they are certified prior to assuming the duties of a position in
24 accordance with KRS 161.020. The superintendent shall provide additional
25 applicants upon request when qualified applicants are available;

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

- 1 1. Determination of curriculum, including needs assessment and curriculum
2 development;
- 3 2. Assignment of all instructional and noninstructional staff time;
- 4 3. Assignment of students to classes and programs within the school;
- 5 4. Determination of the schedule of the school day and week, subject to the
6 beginning and ending times of the school day and school calendar year as
7 established by the local board;
- 8 5. Determination of use of school space during the school day;
- 9 6. Planning and resolution of issues regarding instructional practices;
- 10 7. Selection and implementation of discipline and classroom management
11 techniques as a part of a comprehensive school safety plan, including
12 responsibilities of the student, parent, teacher, counselor, and principal;
- 13 8. Selection of extracurricular programs and determination of policies
14 relating to student participation based on academic qualifications and
15 attendance requirements, program evaluation, and supervision;
- 16 9. Procedures, consistent with local school board policy, for determining
17 alignment with state standards, technology utilization, and program
18 appraisal; and
- 19 10. Procedures to assist the council with consultation in the selection of
20 personnel by the principal, including, but not limited to, meetings,
21 timelines, interviews, review of written applications, and review of
22 references. Procedures shall address situations in which members of the
23 council are not available for consultation; and
- 24 (j) Each school council shall annually review data on its students' performance as
25 shown by the Commonwealth Accountability Testing System. The data shall
26 include but not be limited to information on performance levels of all students
27 tested, and information on the performance of students disaggregated by race,

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

- 12 (3) The policy adopted by the local board to implement school-based decision making
13 shall also address the following:
- 14 (a) School budget and administration, including: discretionary funds; activity and
15 other school funds; funds for maintenance, supplies, and equipment; and
16 procedures for authorizing reimbursement for training and other expenses;
 - 17 (b) Assessment of individual student progress, including testing and reporting of
18 student progress to students, parents, the school district, the community, and
19 the state;
 - 20 (c) School improvement plans, including the form and function of strategic
21 planning and its relationship to district planning, as well as the school safety
22 plan and requests for funding from the Center for School Safety under KRS
23 158.446;
 - 24 (d) Professional development plans developed pursuant to KRS 156.095;
 - 25 (e) Parent, citizen, and community participation including the relationship of the
26 council with other groups;
 - 27 (f) Cooperation and collaboration within the district, with other districts, and with

- 1 other public and private agencies;
- 2 (g) Requirements for waiver of district policies;
- 3 (h) Requirements for record keeping by the school council; and
- 4 (i) A process for appealing a decision made by a school council.
- 5 (4) In addition to the authority granted to the school council in this section, the local
6 board may grant to the school council any other authority permitted by law. The
7 board shall make available liability insurance coverage for the protection of all
8 members of the school council from liability arising in the course of pursuing their
9 duties as members of the council.
- 10 (5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to
11 implement school-based decision making shall do so. All schools shall implement
12 school-based decision making by July 1, 1996, in accordance with this section and
13 with the policy adopted by the local board pursuant to this section. Upon favorable
14 vote of a majority of the faculty at the school and a majority of at least twenty-five
15 (25) voting parents of students enrolled in the school, a school meeting its goal as
16 determined by the Department of Education pursuant to KRS 158.6455 may apply
17 to the Kentucky Board of Education for exemption from the requirement to
18 implement school-based decision making, and the state board shall grant the
19 exemption. The voting by the parents on the matter of exemption from implementing
20 school-based decision making shall be in an election conducted by the parent and
21 teacher organization of the school or, if none exists, the largest organization of
22 parents formed for this purpose. Notwithstanding the provisions of this section, a
23 local school district shall not be required to implement school-based decision making
24 if the local school district contains only one (1) school.
- 25 (6) The Department of Education shall provide professional development activities to
26 assist schools in implementing school-based decision making. School council
27 members elected for the first time shall complete a minimum of six (6) clock hours of

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

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

25 (8) The Kentucky Board of Education, upon recommendation of the commissioner of
26 education, shall adopt by administrative regulation a formula by which school district
27 funds shall be allocated to each school council. Included in the school council

1 formula shall be an allocation for professional development that is at least sixty-five
2 percent (65%) of the district's per pupil state allocation for professional development
3 for each student in average daily attendance in the school. The school council shall
4 plan professional development in compliance with requirements specified in KRS
5 156.095, except as provided in KRS 158.649. School councils of small schools shall
6 be encouraged to work with other school councils to maximize professional
7 development opportunities.

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

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

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

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

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

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

10 **(a) No later than the 2008-2009 school year, all public schools containing**
11 **preschool through eighth grades shall have a wellness policy and shall**
12 **implement at least thirty (30) minutes of structured moderate-to-vigorous**
13 **physical activity each day, or one hundred fifty (150) minutes per week. The**
14 **required physical activity, if segmented, shall be at least ten (10) minutes in**
15 **duration and be incorporated into the existing school day. The physical**
16 **activity may include any combination of classroom-based physical activity,**
17 **structured recess, or other structured physical activity.**

18 **(b)** The policy may permit physical activity to be considered part of the
19 instructional day, not to exceed thirty (30) minutes per day, or one hundred
20 and fifty (150) minutes per week.

21 **(c)** Each school council, or if there is no school council, the principal, shall adopt
22 an assessment tool to determine each child's level of physical activity on an
23 annual basis. The council or principal may utilize an existing assessment
24 program.~~[The Kentucky Department of Education shall make available a list~~
25 ~~of available resources to carry out the provisions of this subsection. The~~
26 ~~department shall report to the Legislative Research Commission no later than~~
27 ~~November 1 of each year on how the schools are providing physical activity~~

1 ~~under this subsection and on the types of physical activity being provided.]~~

2 (d) The policy developed by the school council or principal shall comply with
3 provisions required by federal law, state law, or local board policy.