

1 AN ACT relating to arts education.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) The General Assembly hereby finds and declares that:*

6 *(a) Standards-based, sequenced instruction in the visual and performing arts*
7 *contributes positively to student self-expression, artistic abilities, motivation*
8 *and academic performance, school climate, and social and emotional*
9 *learning;*

10 *(b) The Commonwealth's system of public education was created to allow and*
11 *assist students to acquire certain capacities, including sufficient grounding*
12 *in the arts as described in KRS 158.645;*

13 *(c) Goals for public schools established in KRS 158.6451 require schools to*
14 *develop their students' abilities to apply core concepts and principles from*
15 *the arts and express their creative talents and interests in visual arts, music,*
16 *dance, and dramatic arts; and*

17 *(d) Research supports that children who are highly engaged in the arts perform*
18 *better academically, are more engaged in school, achieve higher levels of*
19 *postsecondary education, and are more engaged in positive civic pursuits*
20 *beyond their school years.*

21 *(2) By the beginning of the 2021-2022 school year, all public schools shall:*

22 *(a) For schools containing grades kindergarten through five (5), or any*
23 *combination thereof, offer to all students a minimum of one hundred twenty*
24 *(120) minutes per week of sequenced, standards-based instruction in the*
25 *visual and performing arts, such as music, visual arts, theater, and dance;*

26 *(b) For schools containing grades six (6) through eight (8), or any combination*
27 *thereof, offer to all students sequenced, standards-based visual and*

1 performance arts instruction, which includes the opportunity for students to
2 develop their creative talents and interests in the visual and performing
3 arts;

4 (c) Submit an annual visual and performing arts program data report to the
5 Kentucky Department of Education in a manner as required by the
6 department under subsection (3)(e) of this section; and

7 (d) Implement school policies that:

8 1. Include visual and performing arts instruction as part of the
9 instructional day;

10 2. Prohibit discipline options from including revoking participation in
11 arts instruction; and

12 3. Prohibit reducing visual and performing arts instructional time for the
13 remediation of student deficiencies in other subjects.

14 (3) The Kentucky Department of Education shall:

15 (a) In consultation with certified visual and performing arts specialist teachers,
16 develop and disseminate to schools program standards for the visual and
17 performing arts;

18 (b) Develop and disseminate to schools guidelines on visual and performing
19 arts model programs and additional arts enrichment activities for visual and
20 performing arts instruction that occur during the school day, including co-
21 curricular instruction. The guidelines may include extra-curricular
22 activities, but these activities shall not be considered a substitute for
23 instruction during regular school hours;

24 (c) Encourage school councils to develop their own visual and performing arts
25 program models and to utilize and consult with certified visual and
26 performing arts specialist teachers in the development of their plans;

27 (d) Make available a list of accessible resources and assessment tools to assist

- 1 *schools in meeting the requirements of this section;*
- 2 *(e) Provide to schools an easy-to-use checklist for reporting visual and*
- 3 *performing arts program data to be included in the school profile report*
- 4 *described in subsection (20) of Section 2 of this Act;*
- 5 *(f) Develop strategies and initiatives to publicly bring attention to efforts and*
- 6 *progress toward meeting the requirements of this section, such as public*
- 7 *recognition of outstanding visual and performing arts programs;*
- 8 *(g) Share aggregate school district data submitted under this section with the*
- 9 *Office of the Kentucky Center for Statistics for use in analyzing the impact*
- 10 *of visual and performing arts study on student success, emotional health,*
- 11 *career readiness, academic achievement, and other desirable student*
- 12 *outcomes; and*
- 13 *(h) By December 1, 2021, and by December 1 of each year thereafter, report to*
- 14 *the Interim Joint Committee on Education on the status of schools meeting*
- 15 *the requirements of this section. The report shall be posted on the*
- 16 *department's Web site in the same location as the school accountability*
- 17 *system reports.*

18 ➔Section 2. KRS 158.6453 is amended to read as follows:

- 19 (1) As used in this section:
- 20 (a) "Accelerated learning" means an organized way of helping students meet
- 21 individual academic goals by providing direct instruction to eliminate student
- 22 performance deficiencies or enable students to move more quickly through
- 23 course requirements and pursue higher level skill development;
- 24 (b) "Constructed-response items" or "performance-based items" means individual
- 25 test items that require the student to create an answer rather than select a
- 26 response and may include fill-in-the-blank, short-answer, extended-answer,
- 27 open-response, and writing-on-demand formats;

- 1 (c) "Criterion-referenced test" means a test that is aligned with defined academic
2 content standards and measures an individual student's level of performance
3 against the standards;
- 4 (d) "End-of-course examination" means the same as defined in KRS 158.860;
- 5 (e) "Formative assessment" means a process used by teachers and students during
6 instruction to adjust ongoing teaching and learning to improve students'
7 achievement of intended instructional outcomes. Formative assessments may
8 include the use of commercial assessments, classroom observations, teacher-
9 designed classroom tests and assessments, and other processes and
10 assignments to gain information about individual student learning;
- 11 (f) "Interim assessments" means assessments that are given periodically
12 throughout the year to provide diagnostic information and to show individual
13 student performance against content standards;
- 14 (g) "Summative assessment" means an assessment given at the end of the school
15 year, semester, or other period of time to evaluate students' performance
16 against content standards within a unit of instruction or a course; and
- 17 (h) "Writing" means a purposeful act of thinking and expression that uses
18 language to explore ideas and communicate meaning to others. Writing is a
19 complex, multifaceted act of communication.
- 20 (2) (a) Beginning in fiscal year 2017-2018, and every six (6) years thereafter, the
21 Kentucky Department of Education shall implement a process for reviewing
22 Kentucky's academic standards and the alignment of corresponding
23 assessments for possible revision or replacement to ensure alignment with
24 transition readiness standards necessary for global competitiveness and with
25 state career and technical education standards.
- 26 (b) The revisions to the content standards shall:
- 27 1. Focus on critical knowledge, skills, and capacities needed for success in

- 1 the global economy;
- 2 2. Result in fewer but more in-depth standards to facilitate mastery
- 3 learning;
- 4 3. Communicate expectations more clearly and concisely to teachers,
- 5 parents, students, and citizens;
- 6 4. Be based on evidence-based research;
- 7 5. Consider international benchmarks; and
- 8 6. Ensure that the standards are aligned from elementary to high school to
- 9 postsecondary education so that students can be successful at each
- 10 education level.
- 11 (c) 1. The department shall establish four (4) standards and assessments
- 12 review committees, with each committee composed of a minimum of six
- 13 (6) Kentucky public school teachers and a minimum of two (2)
- 14 representatives from Kentucky institutions of higher education,
- 15 including at least one (1) representative from a public institution of
- 16 higher education. Each committee member shall teach in the subject area
- 17 that his or her committee is assigned to review and have no prior or
- 18 current affiliation with a curriculum or assessment resources vendor.
- 19 2. One (1) of the four (4) committees shall be assigned to focus on the
- 20 review of language arts and writing academic standards and
- 21 assessments, one (1) on the review of mathematics academic standards
- 22 and assessments, one (1) on the review of science academic standards
- 23 and assessments, and one (1) on the review of social studies academic
- 24 standards and assessments.
- 25 (d) 1. The department shall establish twelve (12) advisory panels to advise and
- 26 assist each of the four (4) standards and assessments review committees.
- 27 2. Three (3) advisory panels shall be assigned to each standards and

1 assessments review committee. One (1) panel shall review the standards
2 and assessments for kindergarten through grade five (5), one (1) shall
3 review the standards and assessments for grades six (6) through eight
4 (8), and one (1) shall review the standards and assessments for grades
5 nine (9) through twelve (12).

6 3. Each advisory panel shall be composed of at least one (1) representative
7 from a Kentucky institution of higher education and a minimum of six
8 (6) Kentucky public school teachers who teach in the grade level and
9 subject reviewed by the advisory panel to which they are assigned and
10 have no prior or current affiliation with a curriculum or assessment
11 resources vendor.

12 (e) The commissioner of education and the president of the Council on
13 Postsecondary Education shall also provide consultants for the standards and
14 assessments review committees and the advisory panels who are business and
15 industry professionals actively engaged in career fields that depend on the
16 various content areas.

17 (f) 1. The standards and assessments process review committee is hereby
18 established and shall be composed of the commissioner of education or
19 designee as a nonvoting member and nine (9) voting representatives of
20 public schools, of whom at least two (2) shall be parents of public
21 school students, appointed by the Governor and confirmed by the Senate
22 in accordance with KRS 11.160 as follows:

- 23 a. One (1) language arts teacher;
- 24 b. One (1) math teacher;
- 25 c. One (1) science teacher;
- 26 d. One (1) social studies teacher;
- 27 e. Two (2) school principals;

- 1 f. Two (2) school superintendents; and
- 2 g. One (1) school board member.
- 3 2. On making appointments to the committee, the Governor shall ensure
- 4 broad geographical urban and rural representation and representation of
- 5 elementary, middle, and high school levels; ensure equal representation
- 6 of the two (2) sexes, inasmuch as possible; and ensure that appointments
- 7 reflect the minority racial composition of the Commonwealth.
- 8 3. The review of the committee shall be limited to the procedural aspects
- 9 of the review process undertaken prior to its consideration.
- 10 4. Notwithstanding KRS 12.028, the committee shall not be subject to
- 11 reorganization by the Governor.
- 12 (g) 1. The review process implemented under this subsection shall be an open,
- 13 transparent process that allows all Kentuckians an opportunity to
- 14 participate. The department shall ensure the public's assistance in
- 15 reviewing and suggesting changes to the standards and alignment
- 16 adjustments to corresponding state assessments by establishing a Web
- 17 site dedicated to collecting comments by the public and educators. An
- 18 independent third party, which has no prior or current affiliation with a
- 19 curriculum or assessment resources vendor, shall be selected by the
- 20 department to collect and transmit the comments to the department for
- 21 dissemination to the appropriate advisory panel for review and
- 22 consideration.
- 23 2. Each advisory panel shall review the standards and assessments for its
- 24 assigned subject matter and grade level and the suggestions made by the
- 25 public and educators. After completing its review, each advisory panel
- 26 shall make recommendations for changes to the standards and alignment
- 27 adjustments for assessments to the appropriate standards and

1 assessments review committee.

2 3. Each standards and assessments review committee shall review the
3 findings and make recommendations to revise or replace existing
4 standards and to adjust alignment of assessments.

5 4. The recommendations shall be published on the Web site established in
6 this subsection for the purpose of gathering additional feedback from the
7 public. The commissioner shall subsequently present the
8 recommendations and the public feedback to the Interim Joint
9 Committee on Education.

10 5. The commissioner shall subsequently provide a report to the standards
11 and assessments process review committee summarizing the process
12 conducted under this subsection and the resulting recommendations. The
13 report shall include but not be limited to the timeline of the review
14 process, public feedback, and responses from the Interim Joint
15 Committee on Education.

16 6. After receiving the commissioner's report, the standards and assessments
17 process review committee shall either concur that stakeholders have had
18 adequate opportunity to provide input on standards and the
19 corresponding alignment of state assessments or find the input process
20 deficient. If the process is found deficient, the recommendations may be
21 returned to the appropriate standards and assessments review committee
22 for review as described in subparagraph 3. of this paragraph. If the
23 process is found sufficient, the recommendations shall be forwarded
24 without amendment to the Kentucky Board of Education.

25 (h) The Kentucky Board of Education shall promulgate administrative regulations
26 in accordance with KRS Chapter 13A as may be needed for the administration
27 of the review process, including staggering the timing and sequence of the

1 review process by subject area and remuneration of the review committees
2 and advisory panels described in paragraphs (c) and (d) of this subsection.

- 3 (i) 1. The Kentucky Board of Education shall consider for approval the
4 revisions to academic standards for a content area and the alignment of
5 the corresponding state assessment once recommendations are received
6 from the standards and assessments process review committee. Existing
7 state academic standards shall remain in place until the board approves
8 new standards.
- 9 2. Any revision to, or replacement of, the academic standards and
10 assessments as a result of the review process conducted under this
11 subsection shall be implemented in Kentucky public schools no later
12 than the second academic year following the review process. Existing
13 academic standards shall be used until new standards are implemented.
- 14 3. The Department of Education shall disseminate the academic content
15 standards to the schools and teacher preparation programs.
- 16 (j) The Department of Education shall provide or facilitate statewide training
17 sessions for existing teachers and administrators on how to:
- 18 1. Integrate the revised content standards into classroom instruction;
19 2. Better integrate performance assessment of students within their
20 instructional practices; and
21 3. Help all students use higher-order thinking and communication skills.
- 22 (k) The Education Professional Standards Board in cooperation with the
23 Kentucky Board of Education and the Council on Postsecondary Education
24 shall coordinate information and training sessions for faculty and staff in all of
25 the teacher preparation programs in the use of the revised academic content
26 standards. The Education Professional Standards Board shall ensure that each
27 teacher preparation program includes use of the academic standards in the pre-

1 service education programs and that all teacher interns will have experience
2 planning classroom instruction based on the revised standards.

3 (l) The Council on Postsecondary Education in cooperation with the Kentucky
4 Department of Education and the postsecondary education institutions in the
5 state shall coordinate information sessions regarding the academic content
6 standards for faculty who teach in the various content areas.

7 (3) (a) The Kentucky Board of Education shall be responsible for creating and
8 implementing a balanced statewide assessment program that measures the
9 students', schools', and districts' achievement of the goals set forth in KRS
10 158.645 and 158.6451, to ensure compliance with the federal Every Student
11 Succeeds Act of 2015, Pub. L. No. 114-95, or its successor, and to ensure
12 school accountability.

13 (b) The board shall revise the annual statewide assessment program as needed in
14 accordance with revised academic standards and corresponding assessment
15 alignment adjustments approved by the board under subsection (2) of this
16 section.

17 (c) The statewide assessments shall not include any academic standards not
18 approved by the board under subsection (2) of this section.

19 (d) The board shall seek the advice of the Office of Education Accountability; the
20 School Curriculum, Assessment, and Accountability Council; the Education
21 Assessment and Accountability Review Subcommittee, and the National
22 Technical Advisory Panel on Assessment and Accountability in the
23 development of the assessment program. The statewide assessment program
24 shall not include measurement of a student's ability to become a self-sufficient
25 individual or to become a responsible member of a family, work group, or
26 community.

27 (4) (a) The academic components of the statewide assessment program shall be

1 composed of annual student summative tests, which may include a
2 combination of multiple competency-based assessment and performance
3 measures approved by the Kentucky Board of Education.

4 (b) The annual student summative tests shall:

- 5 1. Measure individual student achievement in language, reading, English,
6 mathematics, science, and social studies at designated grades;
- 7 2. Provide teachers and parents a valid and reliable comprehensive analysis
8 of skills mastered by individual students;
- 9 3. Provide diagnostic information that identifies strengths and academic
10 deficiencies of individual students in the content areas;
- 11 4. Provide information to teachers that can enable them to improve
12 instruction for current and future students;
- 13 5. Provide longitudinal profiles for students; and
- 14 6. Ensure school and district accountability for student achievement of the
15 goals set forth in KRS 158.645 and 158.6451, except the statewide
16 assessment program shall not include measurement of a student's ability
17 to become a self-sufficient individual or to become a responsible
18 member of a family, work group, or community.

19 (5) The state student assessments shall include the following components:

20 (a) Elementary and middle grades requirements are:

- 21 1. A criterion-referenced test each in mathematics and reading in grades
22 three (3) through eight (8) that is valid and reliable for an individual
23 student and that measures the depth and breadth of Kentucky's academic
24 content standards;
- 25 2. A criterion-referenced test each in science and social studies that is valid
26 and reliable for an individual student as necessary to measure the depth
27 and breadth of Kentucky's academic content standards to be

1 administered one (1) time within the elementary and middle grades,
2 respectively;

3 3. An on-demand assessment of student writing to be administered one (1)
4 time within the elementary grades and one (1) time within the middle
5 grades; and

6 4. An editing and mechanics test relating to writing, using multiple choice
7 and constructed response items, to be administered one (1) time within
8 the elementary and the middle grades, respectively;

9 (b) High school requirements are:

10 1. A criterion-referenced test in mathematics, reading, and science that is
11 valid and reliable for an individual student and that measures the depth
12 and breadth of Kentucky's academic content standards to be
13 administered one (1) time within the high school grades;

14 2. A criterion-referenced test in social studies that is valid and reliable for
15 an individual student as necessary to measure the depth and breadth of
16 Kentucky's academic content standards to be administered one (1) time
17 within the high school grades;

18 3. An on-demand assessment of student writing to be administered one (1)
19 time within the high school grades;

20 4. An editing and mechanics test relating to writing, using multiple choice
21 and constructed response items, to be administered one (1) time within
22 the high school grades; and

23 5. A college admissions examination to assess English, reading,
24 mathematics, and science in the spring of grade ten (10) and the spring
25 of grade eleven (11);

26 (c) The Kentucky Board of Education shall add any other component necessary to
27 comply with the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or

- 1 its successor, as determined by the United States Department of Education;
- 2 (d) The criterion-referenced components required in this subsection shall be
- 3 composed of constructed response items and multiple choice items;
- 4 (e) The Kentucky Board of Education may incorporate end-of-course
- 5 examinations into the assessment program to be used in lieu of requirements
- 6 for criterion-referenced tests required under paragraph (b) of this subsection;
- 7 and
- 8 (f) The results of the assessment program developed under this subsection shall
- 9 be used by schools and districts to determine appropriate instructional
- 10 modifications for all students in order for students to make continuous
- 11 progress, including that needed by advanced learners.
- 12 (6) Each school district shall administer the statewide student assessment during the
- 13 last fourteen (14) days of school in the district's instructional calendar. The
- 14 Kentucky Board of Education may change the testing window to allow for
- 15 innovative assessment systems or other online test administration and shall
- 16 promulgate administrative regulations that minimize the number of days of testing
- 17 and outline the procedures to be used during the testing process to ensure test
- 18 security, including procedures for testing makeup days, and to comply with federal
- 19 assessment requirements.
- 20 (7) A student enrolled in a district-operated or district-contracted alternative program
- 21 shall participate in the appropriate assessments required by this section.
- 22 (8) A local school district may select and use commercial interim or formative
- 23 assessments or develop and use its own formative assessments to provide data on
- 24 how well its students are growing toward mastery of Kentucky academic standards,
- 25 so long as the district's local school board develops a policy minimizing the
- 26 reduction in instructional time related to the administration of the interim
- 27 assessments. Nothing in this section precludes teachers from using ongoing teacher-

1 developed formative processes.

2 (9) Each school that enrolls primary students shall use diagnostic assessments and
3 prompts that measure readiness in reading and mathematics for its primary students
4 as determined by the school to be developmentally appropriate. The schools may
5 use commercial products, use products and procedures developed by the district, or
6 develop their own diagnostic procedures. The results shall be used to inform the
7 teachers and parents or guardians of each student's skill level.

8 (10) The state board shall ensure that a technically sound longitudinal comparison of the
9 assessment results for the same students shall be made available.

10 (11) The following provisions shall apply to the college admissions examinations
11 described in subsection (5)(b)5. of this section:

12 (a) The cost of both college admissions examinations administered to students in
13 high school shall be paid for by the Kentucky Department of Education. The
14 costs of additional college admissions examinations shall be the responsibility
15 of the student;

16 (b) If funds are available, the Kentucky Department of Education shall provide a
17 college admissions examination preparation program to all public high school
18 juniors. The department may contract for necessary services; and

19 (c) Accommodations provided to a student with a disability taking the college
20 admissions assessments under this subsection shall consist of:

21 1. Accommodations provided in a manner allowed by the college
22 admissions assessment provider when results in test scores are
23 reportable to a postsecondary institution for admissions and placement
24 purposes, except as provided in subparagraph 2. of this paragraph; or

25 2. Accommodations provided in a manner allowed by a student's
26 individualized education program as defined in KRS 158.281 for a
27 student whose disability precludes valid assessment of his or her

1 academic abilities using the accommodations provided under
2 subparagraph 1. of this paragraph when the student's scores are not
3 reportable to a postsecondary institution for admissions and placement
4 purposes.

- 5 (12) Kentucky teachers shall have a significant role in providing feedback about the
6 design of the assessments, except for the college admissions exams described in
7 subsection (5)(b)5. of this section. The assessments shall be designed to:
- 8 (a) Measure grade appropriate core academic content, basic skills, and higher-
9 order thinking skills and their application;
 - 10 (b) Provide valid and reliable scores for schools. If scores are reported for
11 students individually, they shall be valid and reliable;
 - 12 (c) Minimize the time spent by teachers and students on assessment; and
 - 13 (d) Assess Kentucky academic standards only.
- 14 (13) The results from assessment under subsections (3) and (5) of this section shall be
15 reported to the school districts and schools no later than seventy-five (75) days
16 following the last day the assessment can be administered. Assessment reports
17 provided to the school districts and schools shall include an electronic copy of an
18 operational subset of test items from each assessment administered to their students
19 and the results for each of those test items by student and by school.
- 20 (14) The Department of Education shall gather information to establish the validity of
21 the assessment and accountability program. It shall develop a biennial plan for
22 validation studies that shall include but not be limited to the consistency of student
23 results across multiple measures, the congruence of school scores with documented
24 improvements in instructional practice and the school learning environment, and the
25 potential for all scores to yield fair, consistent, and accurate student performance
26 level and school accountability decisions. Validation activities shall take place in a
27 timely manner and shall include a review of the accuracy of scores assigned to

1 students and schools, as well as of the testing materials. The plan shall be submitted
2 to the Commission by July 1 of the first year of each biennium. A summary of the
3 findings shall be submitted to the Legislative Research Commission by September 1
4 of the second year of the biennium.

5 (15) The Department of Education and the state board shall offer optional assistance to
6 local school districts and schools in developing and using continuous assessment
7 strategies needed to assure student progress. The continuous assessment shall
8 provide diagnostic information to improve instruction to meet the needs of
9 individual students.

10 (16) The Administration Code for Kentucky's Assessment Program shall include
11 prohibitions of inappropriate test preparation activities by school district employees
12 charged with test administration and oversight, including but not limited to the issue
13 of teachers being required to do test practice in lieu of regular classroom instruction
14 and test practice outside the normal work day. The code shall include disciplinary
15 sanctions that may be taken toward a school or individuals.

16 (17) The Kentucky Board of Education, after the Department of Education has received
17 advice from the Office of Education Accountability; the School Curriculum,
18 Assessment, and Accountability Council; and the National Technical Advisory
19 Panel on Assessment and Accountability, shall promulgate an administrative
20 regulation under KRS Chapter 13A to establish the components of a reporting
21 structure for assessments administered under this section. The reporting structure
22 shall include the following components:

23 (a) A school report card that clearly communicates with parents and the public
24 about school performance. The school report card shall be sent to the parents
25 of the students of the districts, and information on electronic access to a
26 summary of the results for the district shall be published in the newspaper
27 with the largest circulation in the county. It shall include but not be limited to

- 1 the following components reported by race, gender, and disability when
2 appropriate:
- 3 1. Student academic achievement, including the results from each of the
4 assessments administered under this section;
 - 5 2. For Advanced Placement, Cambridge Advanced International, and
6 International Baccalaureate, the courses offered, the number of students
7 enrolled, completing, and taking the examination for each course, and
8 the percentage of examinees receiving a score of three (3) or better on
9 AP examinations, a score of "e" or better on Cambridge Advanced
10 International examinations, or a score of five (5) or better on IB
11 examinations. The data shall be disaggregated by gender, race, students
12 with disabilities, and economic status;
 - 13 3. Nonacademic achievement, including the school's attendance, retention,
14 graduation rates, and student transition to postsecondary;
 - 15 4. *The school profile report submitted under subsection (20) of this*
16 *section;*
 - 17 5. School learning environment, including measures of parental
18 involvement; and
 - 19 ~~6.~~^{5.} Any other school performance data required by the Every Student
20 Succeeds Act of 2015, Pub. L. No. 114-95, or its successor;
- 21 (b) An individual student report to parents for each student in grades three (3)
22 through eight (8) summarizing the student's skills in reading, science, social
23 studies, and mathematics. The school's staff shall develop a plan for
24 accelerated learning for any student with identified deficiencies or strengths;
25 and
- 26 (c) A student's highest scores on the college admissions assessments administered
27 under subsection (5)(b)5. of this section.

- 1 (18) (a) Beginning in fiscal year 2017-2018, and every six (6) years thereafter, the
2 Kentucky Department of Education shall implement a comprehensive process
3 for reviewing and revising the academic standards in visual and performing
4 arts and practical living skills and career studies for all levels and in foreign
5 language for middle and high schools. The department shall develop review
6 committees for the standards for each of the content areas that include
7 representation from certified specialist public school teachers and
8 postsecondary teachers in those subject areas.
- 9 (b) The academic standards in practical living skills for elementary, middle, and
10 high school levels shall include a focus on drug abuse prevention, with an
11 emphasis on the prescription drug epidemic and the connection between
12 prescription opioid abuse and addiction to other drugs, such as heroin and
13 synthetic drugs.
- 14 (c) The department shall provide to all schools guidelines for programs that
15 incorporate the adopted academic standards in visual and performing arts and
16 practical living and career studies. The department shall provide to middle and
17 high schools guidelines for including a foreign language program. The
18 guidelines shall address program length and time, courses offered, staffing,
19 resources, and facilities.
- 20 ~~{(d) The Kentucky Department of Education, in consultation with certified public~~
21 ~~school teachers of visual and performing arts, may develop program standards~~
22 ~~for the visual and performing arts.}~~
- 23 (19) The Kentucky Department of Education shall provide to all schools guidelines for
24 including an effective writing program within the curriculum. Each school-based
25 decision making council or, if there is no school council, a committee appointed by
26 the principal, shall adopt policies that determine the writing program for its school
27 and submit it to the Department of Education for review and comment. The writing

1 program shall incorporate a variety of language resources, technological tools, and
2 multiple opportunities for students to develop complex communication skills for a
3 variety of purposes.

4 (20) (a) The Kentucky Department of Education, in consultation with the review
5 committees described in subsection (18) of this section, shall develop a school
6 profile report to be used by all schools to document how they will address the
7 adopted academic standards in their implementation of the programs as
8 described in subsection (18) of this section, which may include student
9 opportunities and experiences in extracurricular activities. The department
10 shall include the visual and performing arts program data described in
11 subsection (3)(e) of Section 1 of this Act and the essential workplace ethics
12 program on the school profile report.

13 (b) By October 1 of each year, each school principal shall complete the school
14 profile report, which shall be signed by the members of the school council, or
15 the principal if no school council exists, and the superintendent. The report
16 shall be electronically transmitted to the Kentucky Department of Education,
17 and the original shall be maintained on file at the local board office and made
18 available to the public upon request. The department shall include a link to
19 each school's profile report on its Web site.

20 (c) If a school staff member, student, or a student's parent has concerns regarding
21 deficiencies in a school's implementation of the programs described in
22 subsection (18) of this section, he or she may submit a written inquiry to the
23 school council.

24 ➔Section 3. KRS 160.345 is amended to read as follows:

25 (1) For the purpose of this section:

26 (a) "Minority" means American Indian; Alaskan native; African-American;
27 Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or

1 South American origin; Pacific islander; or other ethnic group
2 underrepresented in the school;

3 (b) "School" means an elementary or secondary educational institution that is
4 under the administrative control of a principal and is not a program or part of
5 another school. The term "school" does not include district-operated schools
6 that are:

- 7 1. Exclusively vocational-technical, special education, or preschool
8 programs;
- 9 2. Instructional programs operated in institutions or schools outside of the
10 district; or
- 11 3. Alternative schools designed to provide services to at-risk populations
12 with unique needs;

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

16 (d) "Parent" means:

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

20 (2) Each local board of education shall adopt a policy for implementing school-based
21 decision making in the district which shall include but not be limited to a
22 description of how the district's policies, including those developed pursuant to
23 KRS 160.340, have been amended to allow the professional staff members of a
24 school to be involved in the decision-making process as they work to meet
25 educational goals established in KRS 158.645 and 158.6451. The policy may
26 include a requirement that each school council make an annual report at a public
27 meeting of the board describing the school's progress in meeting the educational

1 goals set forth in KRS 158.6451 and district goals established by the board. The
2 policy shall also address and comply with the following:

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

14 (b) 1. The teacher representatives shall be elected for one (1) year terms by a
15 majority of the teachers. A teacher elected to a school council shall not
16 be involuntarily transferred during his or her term of office. The parent
17 representatives shall be elected for one (1) year terms. The parent
18 members shall be elected by the parents of students preregistered to
19 attend the school during the term of office in an election conducted by
20 the parent and teacher organization of the school or, if none exists, the
21 largest organization of parents formed for this purpose. A school
22 council, once elected, may adopt a policy setting different terms of
23 office for parent and teacher members subsequently elected. The
24 principal shall be the chair of the school council.

25 2. School councils in schools having eight percent (8%) or more minority
26 students enrolled, as determined by the enrollment on the preceding
27 October 1, shall have at least one (1) minority member. If the council

1 formed under paragraph (a) of this subsection does not have a minority
2 member, the principal, in a timely manner, shall be responsible for
3 carrying out the following:

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

8 b. Allowing the teachers in the building to select one (1) minority
9 teacher to serve as a teacher member on the council. If there are no
10 minority teachers who are members of the faculty, an additional
11 teacher member shall be elected by a majority of all teachers. Term
12 limitations shall not apply for a minority teacher member who is
13 the only minority on faculty;

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

21 2. If a school council establishes committees, it shall adopt a policy to
22 facilitate the participation of interested persons, including, but not
23 limited to, classified employees and parents. The policy shall include the
24 number of committees, their jurisdiction, composition, and the process
25 for membership selection;

26 (d) The school council and each of its committees shall determine the frequency
27 of and agenda for their meetings. Matters relating to formation of school

1 councils that are not provided for by this section shall be addressed by local
2 board policy;

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

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

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

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

21 1. From a list of qualified applicants submitted by the local superintendent,
22 the principal at the participating school shall select personnel to fill
23 vacancies, after consultation with the school council, consistent with
24 paragraph (i) ~~12~~¹¹ of this subsection. The superintendent shall provide
25 additional applicants to the principal upon request when qualified
26 applicants are available. The superintendent may forward to the school
27 council the names of qualified applicants who have pending certification

1 from the Education Professional Standards Board based on recent
2 completion of preparation requirements, out-of-state preparation, or
3 alternative routes to certification pursuant to KRS 161.028 and 161.048.
4 Requests for transfer shall conform to any employer-employee bargained
5 contract which is in effect;

6 2. a. i. If the vacancy to be filled is the position of principal, the
7 outgoing principal shall not serve on the council during the
8 principal selection process. The superintendent or the
9 superintendent's designee shall serve as the chair of the
10 council for the purpose of the hiring process and shall have
11 voting rights during the selection process.

12 ii. Except as provided in subdivision b. of this subparagraph,
13 the council shall have access to the applications of all
14 persons certified for the position. The principal shall be
15 elected on a majority vote of the membership of the council.
16 The school council shall receive training in recruitment and
17 interviewing techniques prior to carrying out the process of
18 selecting a principal. The council shall select the trainer to
19 deliver the training;

20 b. An alternative principal selection process may be used by the
21 school council as follows:

22 i. Prior to a meeting called to select a principal, all school
23 council members shall receive informational materials
24 regarding Kentucky open records and open meetings laws
25 and sign a nondisclosure agreement forbidding the sharing of
26 information shared and discussions held in the closed
27 session;

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

1 council by the Kentucky Board of Education under
2 subsection (9)(e) of this section;

- 3 3. No principal who has been previously removed from a position in the
4 district for cause may be considered for appointment as principal in that
5 district;
- 6 4. Personnel decisions made at the school level under the authority of
7 subparagraphs 1. and 2. of this paragraph shall be binding on the
8 superintendent who completes the hiring process;
- 9 5. Applicants subsequently employed shall provide evidence that they are
10 certified prior to assuming the duties of a position in accordance with
11 KRS 161.020;
- 12 6. Notwithstanding other provisions of this paragraph, if the applicant is
13 the spouse of the superintendent and the applicant meets the service
14 requirements of KRS 160.380(3)(a), the applicant shall only be
15 employed upon the recommendation of the principal and the approval of
16 a majority vote of the school council; and
- 17 7. Beginning June 27, 2019, notwithstanding the requirement that a
18 principal be elected on a majority vote of the council in subparagraph 2.
19 of this paragraph, if the school council is in a county school district in a
20 county with a consolidated local government adopted under KRS
21 Chapter 67C, then the selection of a principal shall be subject to
22 approval by the superintendent. If the superintendent does not approve
23 the principal selected by the council, then the superintendent may select
24 the principal;
- 25 (i) The school council shall adopt a policy to be implemented by the principal in
26 the following additional areas:
 - 27 1. Determination of curriculum, including needs assessment, curriculum

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

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

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

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

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

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

26 (8) The Kentucky Board of Education, upon recommendation of the commissioner of
27 education, shall adopt by administrative regulation a formula by which school

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

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

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

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

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

1 in office or willful neglect of duty.

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

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

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

1 policy.

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

5 ➔Section 4. KRS 158.153 is amended to read as follows:

6 (1) Unless the action is taken pursuant to KRS 158.150, no school, school
7 administrator, teacher, or other school employee shall expel or punish a child based
8 on information contained in a record of an adjudication of delinquency or
9 conviction of an offense received by the school pursuant to KRS 610.345 or from
10 any other source. Nothing in this subsection shall be construed to prohibit a local
11 school board or school official from instituting disciplinary proceedings against any
12 student for violating the discipline policy of the school or school district or taking
13 actions necessary to protect staff and students. Actions to protect staff and students
14 may be taken only after the principal makes a determination that the conduct of the
15 student reflected in the records of the school or obtained by the school from the
16 court indicates a substantial likelihood of an immediate and continuing threat that
17 the student will cause harm to students or staff, and that the restrictions to be
18 ordered represent the least restrictive alternative available and appropriate to
19 remedy the threat, and that the determination and supporting material be
20 documented in the child's record. The action of the principal, in addition to or in
21 lieu of any other procedure available, may be appealed by the child or the child's
22 parent or guardian to the superintendent of the school system or to the Circuit Court
23 in the county in which the school is located, and the appealing party may be
24 represented by counsel.

25 (2) No school, school administrator, teacher, or other school employee who has custody
26 of records received or maintained by the school pursuant to KRS 610.345 or who
27 has received information contained in or relating to a record received by the school

1 pursuant to KRS 610.345 shall disclose the fact of the record's existence, or any
2 information contained in the record or received from the record to any other person,
3 including but not limited to other teachers, school employees, pupils, or parents
4 other than the pupil, or parents of the pupil who is the subject of the record.

5 (3) The child and his parent or guardian shall have a civil cause of action against the
6 school board and against any school administrator violating subsection (1) or (2) of
7 this section or divulging information in violation of KRS 610.345 or 610.340. This
8 civil cause of action shall be in addition to any other criminal or administrative
9 remedy provided by law.

10 (4) Nothing in this section shall be construed to prohibit a local board of education
11 from establishing districtwide standards of behavior for students who participate in
12 extracurricular and cocurricular activities, including athletics. A school principal
13 may deny or terminate a student's eligibility to participate in extracurricular or
14 cocurricular activities if the student has violated the local district behavior standards
15 or the council's criteria for participation, as described in KRS 160.345(2)(i)~~218~~. A
16 student's right to participate in extracurricular or cocurricular activities, including
17 athletics, may be suspended, pending investigation of an allegation that the
18 standards of behavior have been violated.

19 ➔Section 5. This Act may be cited as the Arts Education Equity Act.