

## THE SCHOOL-BASED DECISION MAKING (SBDM) LAW (KRS 160.345)

This is the complete text of the Kentucky statute that sets up school councils.

### DEFINITIONS (SECTION 1)

DEFINITION OF MINORITY (1)(a)	<p><b>For the purpose of this section:</b></p> <p>"Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;</p>
DEFINITION OF SCHOOL (1)(b)	<p>"School" means an elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school. The term "school" does not include district-operated schools that are:</p> <ol style="list-style-type: none"> <li>1. Exclusively vocational-technical, special education, or preschool programs;</li> <li>2. Instructional programs operated in institutions or schools outside of the district; or</li> <li>3. Alternative schools designed to provide services to at-risk populations with unique needs:</li> </ol>
DEFINITION OF TEACHER (1)(c)	<p>"Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals <b>and</b> assistant principals.</p>
DEFINITION OF PARENT (1)(d)	<p>"Parent" means:</p> <ol style="list-style-type: none"> <li>1. A parent, stepparent, or foster parent of a student; or</li> <li>2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.</li> </ol>

### MAIN SBDM RULES (SECTION 2)

REPORTING TO THE BOARD (2) (OPENING PARAGRAPH)	<p>Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational Goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational Goals set forth in KRS 158.6451 and district Goals established by the board. The policy shall also address and comply with the following:</p>
COUNCIL MEMBERS (2)(a)	<p>Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;</p>

<p>REGULAR ELECTIONS (2)(b)1</p>	<p>The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students pre-registered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.</p>
<p>MINORITY MEMBER ELECTIONS (2)(b)2</p>	<p>School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:</p> <p>Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and allowing the teachers in the Building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;</p>
<p>POLICY TO ENHANCE ACHIEVEMENT (2)(c)1</p>	<p>The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the Goals established by KRS 158.645 and 158.6451. The principal shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.</p>
<p>COMMITTEES POLICY (2)(c)2</p>	<p>If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.</p>
<p>AGENDA (2)(d)</p>	<p>The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.</p>
<p>MEETINGS (2)(e)</p>	<p>The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.</p>
<p>STAFFING (NUMBER OF PERSONS EMPLOYED) (2)(f)</p>	<p>After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.</p>

<p>TEXTBOOKS, INSTRUCTIONAL MATERIALS, AND STUDENT SUPPORT SERVICES (2)(g)</p>	<p>The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment.</p>
<p>HIRING (2)(h)</p>	<p>From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10 of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent, except as provided in subparagraph 4 of this paragraph. The Superintendent shall provide additional applicants upon request when qualified applicants are available. The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of subparagraphs 1, 2 and 4 of this paragraph shall be binding on the superintendent who completes the hiring process. If the vacancy for the position of principal occurs in a school that has an index score that places it in the lowest one-third (1/3) of all schools below the assistance line and the school has completed a scholastic audit under KRS 158.6455 that includes findings of lack of effectiveness of the principal and school council, the superintendent shall appoint the principal after consulting with the school council. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020. The superintendent shall provide additional applicants upon request when qualified applicants are available;</p>
<p>MOST POLICY RESPONSI- BILITIES (2)(i)</p>	<p>The school council shall adopt a policy to be implemented by the principal in the following additional areas:</p> <ol style="list-style-type: none"> <li>1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under Section 2(7) of this Act (<i>SB 1</i>);</li> <li>2. Assignment of all instructional and non-instructional staff time;</li> <li>3. Assignment of students to classes and programs within the school;</li> <li>4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;</li> <li>5. Determination of use of school space during the school day;</li> <li>6. Planning and resolution of issues regarding instructional practices;</li> <li>7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;</li> <li>8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;</li> <li>9. Procedures, consistent with local school board policy, for determining</li> </ol>

	<p>alignment with state standards, technology utilization, and program appraisal; and</p> <p>10. Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation.</p>
<p>TEST ANALYSIS AND PLANNING (2)(j)</p>	<p>Each school council shall annually review data as shown on state and local student assessments and program assessments required under Section 2 of this Act (<i>SB 1</i>). The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the Goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.</p>

### **ISSUES FOR SCHOOL BOARD SBDM POLICY (SECTION 3)**

The policies adopted by the local board to implement school-based decision making shall also address the following:

- (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
- (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
- (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
- (d) Professional development plans developed pursuant to KRS 156.095;
- (e) Parent, citizen, and community participation including the relationship of the council with other groups;
- (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
- (g) Requirements for waiver of district policies;
- (h) Requirements for record keeping by the school council; and
- (i) A process for appealing a decision made by a school council.

### **INSURANCE AND ADDITIONAL AUTHORITY (SECTION 4)**

In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

### **ABOLISHING A COUNCIL (SECTION 5)**

After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision-making shall do so. All schools shall implement school-based decision-making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its Goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

#### **COUNCIL TRAINING (SECTION 6)**

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

#### **ALTERNATIVE MODELS (SECTION 7)**

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

#### **ALLOCATIONS AND PROFESSIONAL DEVELOPMENT (SECTION 8)**

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

#### **INTERFERENCE WITH THE COUNCIL (SECTION 9)**

(a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful

implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational Goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

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

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

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

**COUNCIL ACCOUNTABILITY (SECTION 10)**

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

**WELLNESS POLICY (SECTION 11)**

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

**KRS 158.645 PROGRAM REVIEWS AND WRITING PROGRAMS (SECTION 2)**

(7) Program Reviews	Beginning in the 2011-2012 academic year, the Kentucky assessment program shall include program reviews and program audits for arts and humanities, practical living skills and career studies, and the writing programs. The results of the program reviews and audits of arts and humanities, practical living skills and careers studies and writing required under this subsection shall be included in the accountability system as required by Section 4 of this Act.
(a) Arts and humanities (b) Practical living skills and career studies	Each school-based decision making council shall analyze the findings from program reviews for its school and determine how it will address program recommendations to improve the program for students.
(7) (c) (2)	2. Each school-based decision making council or if there is no school council, a committee appointed by the principal, shall adopt policies that

determine the writing program for its school and submit it to the Department of Education for review and comment. The writing program shall incorporate a variety of language resources, technological tools, and multiple opportunities for students to develop complex communication skills for a variety of purposes.

3. Writing portfolios, consisting of samples of individual student work that represent the interests and growth of the student over time, shall be a required part of any writing program in primary through grade twelve (12). Portfolios shall be part of the required criteria for the program review and audit process relating to the writing program under this paragraph. Individual student scores on portfolios shall not be included in the accountability system.

4. A writing portfolio shall be maintained for each student and follow each student from grade to grade and to any school in which the student may enroll.

5. A school's policies for the writing program shall address the use of the portfolio for determining a student's performance in:

- a. Communication;
- b. Grading procedures and feedback to students regarding their writing and communication skills;
- c. The responsibility for review of the portfolios and feedback to students; and
- d. Other policies to improve the quality of an individual student's writing and communications skills.

## 2009 LEGISLATIVE UPDATE

*Bills with an emergency declared take effect with the governor's signature, others July 15.*

The bill summaries included here are most connected to school councils. For a broader review of education-related bills, see [education.ky.gov](http://education.ky.gov) or [kasc@kasc.net](mailto:kasc@kasc.net). For full bills, go to [lrc.ky.gov/record/08RS/record.htm](http://lrc.ky.gov/record/08RS/record.htm).

Source: Revised from the Kentucky Department of Education legislative summary, 3-30-09.

### Education Assessment (emergency) — Senate Bill 1

Deletes all references to “CATS”;

Requires the Department of Education, in cooperation with the Council on Postsecondary Education, to develop a process for new standards development within 30 days of the effective date of the Act;

Requires the development of standards to be on a graduated timeline with all standards completed by December 15, 2010, and disseminated by January 15, 2011;

Suspends the state accountability system for 2008-2009, 2009-2010, and 2010-2011 school years, but requires the Kentucky Board of Education to revise the accountability system using the new assessments. The accountability system shall include the use of program reviews, students' academic performance, school improvement results, and other factors deemed appropriate by the board;

Removes the writing portfolio, practical living skills and career studies, and arts and humanities from the state assessments in spring 2009 and thereafter, but requires the writing portfolios to be used as an instructional tool and each student maintain a portfolio that travels with the student from grade to grade in Primary through grade 12;

Requires interim program assessments in writing, practical living skills and career studies and arts and humanities and requires a fully implemented program assessment system beginning in 2011-2012;

Provides an interim testing program for 2008-2009, 2009-2010 and 2010-2011 school years which shall include the current criterion-referenced test in reading, mathematics, science and social studies and adding a norm-referenced test in reading and mathematics in grades 3 through 7 in 2009-2010 and 2010-2011. The interim system continues the high school readiness examination in grade 8, the college readiness examination in grade 10, and the ACT examination in grade 11.

Sets Assessment Requirements for 2011-12 school year and thereafter:

- Diagnostic assessments and prompts as determined by the school to be developmentally appropriate, commercially or locally developed, that measures readiness in reading and mathematics 1 time within the primary grades;
- Writing portfolio to be maintained and used locally for each student but not graded as part of the state student assessments or individual scores used in the accountability system, primary through grade 12;
- A criterion-referenced test (CRT) that is valid and reliable at the individual student level to measure academic content standards in mathematics and reading to be administered in grades 3-8, augmented with a customized or commercially available norm-referenced test to provide comparisons to national norms;
- A CRT that is valid and reliable at the individual student level to measure academic content standards in science and social studies, augmented with a customized or commercially available norm-referenced test to provide national profiles to be administered 1 time within elementary grades and 1 time within middle grades;
- A high school readiness examination to assess English, reading, mathematics, and science to be administered in grade 8, unless the Kentucky Board of Education moves the test to grade 9;



- An editing and mechanics test related to writing to be administered 1 time in the elementary grades, 1 time in the middle grades, and 1 time in high school grades;
- On-demand writing assessment to be administered 1 time within the elementary grades, 2 times within the middle grades, and 2 times within the high school grades;
- A technically sound longitudinal comparison of the assessment results for the same students, primary through grade 12;
- A CRT that is valid and reliable at the individual student level in mathematics, reading, and science that measures academic content standards not covered by ACT to be administered 1 time within high school grades;
- A CRT that is valid and reliable at the individual student level in social studies, augmented with a customized or commercially available norm-referenced test to be administered 1 time within high school grades;
- College readiness exam to assess English, reading, mathematics, and science administered in grade 10;
- ACT administered in grade 11.

Sets other testing provisions:

- Requires program reviews and program audits for arts and humanities, practical living skills and career studies, and the writing programs;
- Requires the KDE to conduct periodic alignment studies between the norm-referenced components and core content to see if the alignment is such that the number of criterion-referenced items can be reduced;
- Requires that teachers and parents be provided a valid and reliable comprehensive analysis of skills mastered by individual students;
- Requires any other component necessary to comply with the No Child Left Behind Act or its successor;
- Changes the testing window to the last 14 days of school with a limit of 5 testing days.

Includes other Provisions:

- The Kentucky Board of Education and the Department of Education shall facilitate an extensive review of how exceptional children's needs are being met through the required student assessment process and how student assessment requirements for exceptional children potentially hamper or enhance intellectual and emotional growth of individual students;
- Requires the Council on Postsecondary Education, the Kentucky Board of Education and the Kentucky Department of Education to develop a unified strategy to reduce college remediation rates by at least fifty percent by 2014 from what they are in 2010 and increase the college completion rates of students enrolled in one or more remedial classes by three percent annually from 2009 to 2014;
- Requires that within 30 days from the effective date of this Act, each postsecondary institution shall plan and implement a process to develop core academic content standards for reading and mathematics for introductory courses in the public postsecondary education institutions.

#### Parent Members of SBDM/Criminal History Background Check — Senate Bill 148

- Amends KRS 160.380 to require school-based decision making parent members to have a state and national fingerprint-supported criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation;
- Permits the parent member to serve prior to the receipt of the criminal history background check report but shall be removed from the council on receipt by the school district of a report documenting a record of a sex crime or criminal offense and no further procedures shall be required;
- Amends KRS 17.545 to prohibit a registrant as a sexual or violent offender as defined in KRS 17.500, or any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky, to be on school grounds; exceptions permitted with approval of the principal, school board or day care center director;

- Amends KRS 17.990 to establish that any person who violates the provisions shall be guilty of a Class A misdemeanor.

#### State Funds Allocations to Local School Districts — House Bill 295

- Amends KRS 157.420 to allow school districts to apply to the commissioner of education to use capital outlay funds to purchase land, modify an existing school or for maintenance or property insurance;
- Allows growth districts to apply to use capital outlay funds for operating expenses for two years after a new school opens;
- Amends KRS 157.440 to allow the levy for school facilities currently dedicated for the Facilities Support Program of Kentucky to be used to purchase land if approved by the commissioner of education.

#### State Funds Allocations to Local School Districts — House Bill 408

- Amends KRS 157.360 to permit growth districts to request adjustments in the SEEK funds when average daily attendance in the current year for the 20-day school month with the most days in January exceeds the prior year's adjusted average daily attendance plus growth by at least 1%;
- Prescribes how the state portion of the SEEK program is calculated regarding the value of real estate;
- Amends KRS 157.420 to permit a local school district to request approval from the commissioner of education to use capital outlay funds for the purchase of school buses or to use the funds for increased operational expenses for the first 3 years following increased growth in the district without forfeiture of the district's participation in the School Facilities Construction Commission Program.