

**157.360 Base funding level -- Adjustment -- Enforcement of maximum class sizes -- Allotment of program funds -- Recalculation of allocated funds -- Lengthening of school days.**

- (1)
    - (a) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.
    - (b) When determining the biennial appropriations for the program, the average daily attendance for each fiscal year shall include an estimate of the number of students graduating early under the provisions of KRS 158.142.
  - (2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year, except a district shall receive an amount equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level for each student who graduated early under the provisions of KRS 158.142. Each district's base funding level shall be adjusted by the following factors:
    - (a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay for:
      1. Alternative programs for students who are at risk of dropping out of school before achieving a diploma; and
      2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;
    - (b) The number and types of exceptional children in the district as defined by KRS 157.200. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children; and
    - (c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.
- (3) Beginning with the 2015-2016 school year and each year thereafter, the General Assembly shall annually allocate funds equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level for each student who graduated early under the provisions of KRS 158.142 the previous school year to the Kentucky Higher Education Assistance Authority for deposit in the early graduation scholarship trust fund.
- (4) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.
- (5)
  - (a) Except for those schools which have implemented school-based decision

making, the commissioner of education shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (6) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
  2. Twenty-eight (28) in grade four (4);
  3. Twenty-nine (29) in grades five (5) and six (6);
  4. Thirty-one (31) in grades seven (7) to twelve (12).
- (b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.
- (c) The commissioner of education, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).
- (d) In all schools the commissioner of education shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.
- (6) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.
- (7) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time

that the child is in attendance at the school or agency, contingent upon approval by the commissioner of education.

- (8) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.
- (9) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.
- (10) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds ( $\frac{2}{3}$ ) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third ( $\frac{1}{3}$ ) of the decrease for the first year of the decline.
- (11) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).
- (12)
  - (a) Instructional salaries for vocational agriculture classes shall be for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Career and Technical Education in the Department of Education. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.
  - (b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan

shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the commissioner of education a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

- (13) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and
- (b) Pursuant to administrative regulations of the Kentucky Board of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported annually on forms provided by the Department of Education.
- (14) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.
- (15) Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.
- (16) During a fiscal year, a school district may request that the Department of Education recalculate its funds allocated under this section if the current year average daily attendance for the twenty (20) day school month as defined in KRS 158.060(1) that contains the most days within the calendar month of January exceeds the prior year adjusted average daily attendance plus growth by at least one percent (1%). Any adjustments in the allotments approved under this subsection shall be proportional to the remaining days in the school year and subject to available funds under the program to support education excellence in Kentucky.

- (17) To calculate the state portion of the program to support education excellence in Kentucky for a school district, the Department of Education shall subtract the local effort required under KRS 157.390(5) from the calculated base funding under the program to support education excellence in Kentucky, as required by this section. The value of the real estate used in this calculation shall be the lesser of the current year assessment or the prior year assessment increased by four percent (4%) plus the value of current year new property. The calculation under this subsection shall be subject to available funds.
- (18) Notwithstanding any other statute or budget of the Commonwealth language to the contrary, time missed due to shortening days for emergencies may be made up by lengthening school days in the school calendar without any loss of funds under the program to support education excellence in Kentucky.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 104, sec. 3, effective June 25, 2013. -- Amended 2009 Ky. Acts ch. 74, sec. 1, effective June 25, 2009, and ch. 88 sec. 4, effective March 24, 2009. -- Amended 2002 Ky. Acts ch. 126, sec. 1, effective April 2, 2002. -- Amended 2001 Ky. Acts ch. 123, sec. 6, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 389, sec. 3, effective July 14, 2000; and ch. 526, sec. 15, effective July 14, 2000 -- Amended 1998 Ky. Acts ch. 493, sec. 10, effective April 10, 1998. -- Amended 1996 Ky. Acts ch. 65, sec. 1, effective July 15, 1996; ch. 87, sec. 1, effective July 15, 1996; and ch. 362, sec. 6, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 74, sec. 1, effective July 15, 1994; and ch. 405, sec. 24, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 323, sec. 1, effective July 14, 1992; ch. 406, sec. 1, effective April 10, 1992. -- Amended 1990 Ky. Acts ch. 476, Pt. III, sec. 97, effective July 13, 1990; and ch. 518, sec. 3, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 361, sec. 14, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 39, sec. 1, effective July 15, 1986; ch. 73, sec. 1, effective July 15, 1986; ch. 157, sec. 1, effective July 15, 1986; and ch. 173, sec. 1, effective March 28, 1986. -- Amended 1985 (1st Extra. Sess.) Ky. Acts ch. 10, sec. 5, effective October 18, 1985. -- Amended 1984 Ky. Acts ch. 41, sec. 1, effective July 13, 1984; ch. 367, sec. 3, effective July 13, 1984; ch. 368, sec. 1, effective July 13, 1984; ch. 397, sec. 6, effective July 13, 1984; and ch. 410, sec. 10, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 97, sec. 3, effective July 15, 1982; ch. 119, sec. 3, effective July 15, 1982; and ch. 358, sec. 2, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 183, sec. 6, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 133, sec. 3, effective June 17, 1978. -- Created 1976 Ky. Acts ch. 93, sec. 25, effective July 1, 1976.

**History for former KRS 157.360.** Repealed 1974 Ky. Acts ch. 363, sec. 18, effective June 30, 1976. -- Amended 1974 Ky. Acts ch. 196, sec. 1, effective June 21, 1974; and ch. 265, sec. 3, effective June 21, 1974. -- Amended 1972 Ky. Acts ch. 66, sec. 1; ch. 151, sec. 5; and ch. 372, sec. 4. -- Amended 1968 Ky. Acts ch. 208, sec. 2. -- Amended 1960 Ky. Acts ch. 145, sec. 3. -- Created 1954 Ky. Acts ch. 214, sec. 6.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 1, (2) at 1057.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 1, (3) at 1057.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 1, (18) at 1058.

**Legislative Research Commission Note (6/25/2013).** A reference to "subsection (5)" in

subsection (5)(a) of this statute has been changed in codification to "subsection (6)" under KRS 7.136(1)(e) and (h). In 2013 Ky. Acts ch. 104, sec. 3, a new subsection (3) was inserted into this statute and subsequent subsections were renumbered, but the internal reference in the existing language was overlooked.