

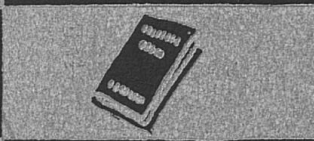
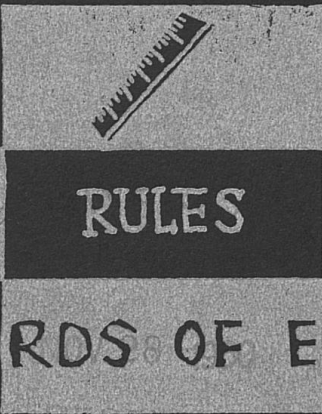
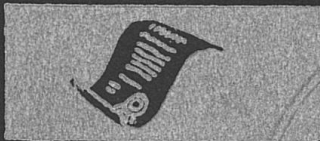
Commonwealth of Kentucky

EDUCATIONAL BULLETIN



POLICIES

REGULATIONS



RULES

FOR BOARDS OF EDUCATION

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DEPARTMENT OF EDUCATION
WENDELL P. BUTLER
Superintendent of Public Instruction

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FOREWORD

KRS 160.290 requires that boards of education shall make and adopt rules, regulations and bylaws for their meetings, for the government, regulation and management of the public schools, for the qualifications and employment of teachers and for the conduct of pupils under their jurisdiction.

The information contained in this bulletin provides ready reference to the many scattered sections of the law affecting the authority and duties of boards of education. It makes suggestions for and gives examples of regulations which will meet the needs of most boards of education.

On request the Department will endeavor to make available the services of members of its staff to superintendents and boards of education who are planning to adopt or who are revising bylaws, rules and regulations. If you have not brought to date the statute references for your rules and regulations, I suggest that you do so at an early date and after you have read this publication. It should then be placed in your ready-reference file for any future need.

All policies and regulations of your board should be copied from the minutes of the board and placed in a bound volume. This will make it possible to have available, at once, an up-to-date record of board action on one of the fundamentals of good school administration.

WENDELL P. BUTLER

Superintendent of Public Instruction

INTRODUCTION

The General Assembly of Kentucky has recognized the necessity for boards of education to have authority to adapt the school laws to the needs of the varying conditions which exist in the different school districts of the Commonwealth. It has provided for meeting this need by requiring that boards of education adopt policies, rules and regulations for their meetings and proceedings, for the government, regulation and management of the public schools under their jurisdiction and for the performance of the duties of all persons employed in public school service in the districts of their jurisdiction.

KRS 160.290 provides in (2), "Each board shall make and adopt, and may amend or repeal rules, regulations and bylaws for its meetings and proceedings for the government, regulation and management of the public schools and school property of the district, for the transaction of its business, and for the qualification and employment of teachers and the conduct of pupils. The rules, regulations, and bylaws heretofore made by any governing body of a school district, or hereafter made by a board of education, shall be consistent with the general school laws of the state and shall be binding on the board of education and parties dealing with it until amended or repealed by an affirmative vote of three members of the board. The rules and regulations and bylaws shall be spread on the minutes of the board and be open to the public."

KRS 161.140 provides that, "Each board of education shall prescribe the duties to be performed by all persons in public school service in the district."

In order to put into proper effect the intention of these sections of law, it is necessary that boards of education formulate such policies, rules and regulations, and bylaws as will assist them in making the laws most effective for their community.

The purpose of the information contained herein is to furnish school administrators and boards of education suggestions which will be of assistance to them in making these policies, rules and regulations, and bylaws suitable to the conditions under which they work. The information presented is based upon policies, rules and regulations which are now in operation in many parts of the state.

PART I. This part deals with the organization and administration of the public school system of Kentucky. It summarizes some of the facts on dual control exercised by the State Department of Education and the Local School District organization. It suggests some of the outstanding principles of school administration and control. It lists some suggested duties of the leaders in the school district organizations. These duties seem to be in accordance with the best procedures in school administration and control.

PART II. This part lists some of the functions and services of the State Department of Education. It cites specific general control and authority of the Department as required by Kentucky Revised Statutes. These statutory requirements impliedly place the State Department of Education in an executive position in carrying out its functions and relationships to the local district organization. This relationship serves as a check and balance between the rights of the local school district organization and the functions and services of the Department of Education as authorized by law.

PART III. This part deals with the legal authority and functions of the local district organization. It suggests procedures for setting up policies and regulations by boards of education. The purpose of such procedures is to guarantee the proper relationship between the local school organization and the people of the district.

PART IV. There is given here detailed suggestions concerning the legal authority of boards of education. It cites court decisions which interpret the laws which are cited. It makes suggestions for adopting policies and making rules and regulations for using such policies as will help adapt the law to local school needs.

Samuel Alexander

Assistant Superintendent of Public Instruction

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INFORMATION ON AND SUGGESTIONS FOR POLICIES, RULES AND REGULATIONS FOR BOARDS OF EDUCATION

I

ORGANIZATION AND ADMINISTRATION OF THE PUBLIC SCHOOL SYSTEM IN KENTUCKY

A. Organization and Administration

1. Two administrative organizations

The public school system of the state is operated by two school administrative organizations. The one is known as a state school administrative organization and is made up of the State Board of Education and the Superintendent of Public Instruction which compose the State Department of Education. The other is known as the district board of education. Each school district is under the management and control of such a board of education. These boards of education and their administrative organizations get their authority from the State Legislature.

2. Administrative Procedures

The Superintendent of Public Instruction is head of the State Department of Education, and the district superintendent is executive agent of the district board of education. The State Board of Education has full authority to set by law the standards and determine the organization of the public school system and the agencies through which it will operate. These laws set certain minimum standards and policies to be observed, and they also clothe these boards and their administrative organization with authority to set further standards consistent with the laws and to make rules and regulations for carrying out the purposes of the law and regulation authorized by such laws.

3. Dual control

The state laws divide control of the school system between the state school administrative organization and the local school administrative organization. This division of responsibility may be illustrated by referring to laws governing the teaching force of the state. These laws provide that certification of teachers shall be done by regulations of the State Board of Education, while the placement of teachers and the control of their services is a local responsibility and function. Another example of this dual control may be seen in that the State Department of Education is required by law to prescribe a general course of study and to determine and prescribe the areas of learning to be included in the offering for an educational program for the children. The local district organization determines and adopts a curriculum and courses of study to meet the local needs and interests of the people of the district based upon the broad course prescribed by the state school organization.

B. Some Principles of School Administration and Control

1. Principles

The principles of school administration and control stated herein have been formulated by authorities in this field. They have been put into practice by boards of education in the better school systems. These principles are based upon the belief that most efficient and satisfactory results can be obtained:

- a. By making the superintendent of schools the chief executive officer of the board with broad powers;
- b. By holding this person responsible for results in the organization and control of the schools under authority of the board; and
- c. With an understanding that proposed new policies are to be initiated and presented to the board by the chief executive officer.

Based upon these principles, some suggested duties of the board and the various officials who work in connection with the superintendent and the board are stated herein.

C. Duties of the Board of Education

1. To adopt policies for the administration of the school system
2. To elect a qualified superintendent who shall be the chief executive officer of the board
3. To hold regular meetings and such special meetings as may be necessary for the proper conduct of the business affairs of the board
4. To require periodic reports from the superintendent and treasurer
5. To pass on the recommendations of the superintendent in regard to:
 - a. Rules and regulations
 - b. Qualifications of employees
 - c. Selection of employees
 - d. Financial program
 - e. Building program
 - f. Instruction program and all its phases wherever regulations are needed

D. Duties of the Secretary of the Board

1. To keep an accurate record of the board in regard to policies and proceedings;
2. Sign orders of the board;
3. Be custodian of securities, documents and other papers of the board; and
4. Make records and the information contained therein available to the superintendent on his request.

E. Duties of the Treasurer of the Board

1. To be responsible for all the moneys belonging to the school system;
2. To keep an accurate record of receipts and disbursements of such money;
3. To prepare periodic reports to the board of education and financial statements;
4. To give an acceptable bond for protection of the funds; and
5. Pay all legal claims authorized by the board.

F. Duties of the Superintendent of Schools

1. To be responsible for the entire school program
 - a. To serve as the chief executive officer of the board of education in its conduct of the schools and of other agencies and activities under its control
 - b. To attend all meetings of the board and of its committees and to exercise the right to speak on all matters before the board or committees but without vote
 - c. To nominate, as needed, assistant superintendents, business managers, supervisors, principals, teachers, custodians, and all other employees authorized by the board of education
 - d. To suspend and recommend for discharge any employee whose services are so unsatisfactory as to warrant such action, subject to approval by the board
 - e. To determine the boundaries of school attendance districts, subject to the approval of the board.
 - f. To make monthly and annual reports to the board of the conditions and needs of the schools
 - g. To prepare for the approval of the board, bylaws, rules, and regulations, needed for the direction and control of the schools
2. To be responsible for the selection and care of equipment
 - a. To approve and direct all purchases and expenditures within the limits of the detailed budget approved by the board and to make monthly reports of such expenditures to the board
 - b. To grant the use of schoolrooms, auditoriums, and gymnasiums, for such community purposes and under such terms as the school board may establish.
3. To be responsible for the curriculum
 - a. To select, after conferring with supervisors, principals, teachers, and such other persons as the superintendent may designate, textbooks and all other supplies and appliances needed for instruction and the activities of the school or other agencies under the control of the board
4. To be responsible for the instruction program
 - a. To prepare or have prepared for his approval the content of each course of study authorized by the board of education

- b. To direct the supervision of the elementary and high schools, of all special schools, and of all extracurricular activities
 - c. To assign principals, custodians, and other employees to the schools, and teachers to schools and grades, and to transfer them according to the needs of the service
5. To be responsible for the preparation of the budget and for financial accounting
 - a. To prepare, or to have prepared for his inspection, the school budget showing in detail the amount of funds necessary to meet the estimated needs for the ensuing year and submit it to the board for consideration and action
6. To be responsible for the housing needs
 - a. To have general supervision of the operation and maintenance of the school plant and equipment and the purchase and storage and distribution of textbooks and other supplies
 - b. To keep the board informed as to school building needs and to recommend school sites and plans for new buildings and for alterations of old buildings
7. To be responsible for the research program
8. To be responsible for the transportation of pupils
9. To be responsible for the health and sanitation program in the school
10. To present to the board information concerning the formulation of board policies

G. Duties of the Board and Superintendent

1. To keep the public informed as to the policies and merits of the school
2. To give to the pupils as nearly as possible adequate and desirable school service

II

STATE DEPARTMENT OF EDUCATION

A. Authority

The Department of Education consists of the State Board of Education and the Superintendent of Public Instruction who is head of the Department of Education. He is the executive officer of the State Board of Education. As such he is responsible for the administration and execution of the educational policies of the State Board of Education. This responsibility is carried out under authority of the rules and regulations adopted by the Board.

As head of the Department of Education the Superintendent of Public Instruction has authority to clothe his assistants with full power of attorney to act for him in the supervision, inspection and administration of schools over which he has supervisory and administrative control.

In the case of *Combs v. State Board of Education et al.*, 249 Ky. 320. Since the Superintendent of Public Instruction sent a representative and made an investigation as required by statutes, and therefore made no charges and required no hearing by the State Board of Education, and since the people have relief sought through the courts, the State Board of Education is not required to take further action. (May 23, 1933)

B. General Control of the School System as Required by Law

Listed below are some of the general controls over local school organizations which have been prescribed by the Legislature as the responsibility of the State Department of Education and its organization.

1. Enforce the school laws of the state and the rules and regulations of the State Board of Education. Certain procedures for doing this are stated in KRS 156.200 and KRS 156.160.
2. Assist the local school district organization in carrying out its responsibilities. The Superintendent of Public Instruction is required by KRS 156.240 to explain the true meaning and intent of the law and rules and regulations of the State Board of Education.
3. Remove local board members for cause KRS 156.110.
4. Discontinue independent school districts when they fail to meet state standards as required by law and the rules and regulations of the State Board of Education. KRS 160.020

5. Examine and supervise accounts and reports of local boards of education. KRS 156.200
6. Assist boards of education in deciding controversies involving proper administration of the schools of their districts. KRS 156.220
7. Approve school building plans for the alterations and additions to old buildings as well as for new buildings. The purpose of such approval is to assure boards of education that the plans for the buildings meet requirements for the health, safety and comfort of the children. KRS 162.060
8. Examine financial, statistical and other reports needed by the Department of Education to fulfill requirements of law and the rules and regulations of the State Board of Education. KRS 160.340
9. Approve bonds of the treasurers and depositories to assure that requirements of law and the rules and regulations of the State Board of Education are met. KRS 160.560, 160.570
10. Approve local school budgets and salary schedules. KRS 160.470
11. Audit financial accounts. KRS 156.210
12. Receive and examine financial reports, as are required by law and by the rules and regulations of the State Board of Education. KRS 157.060
13. Distribute common school fund to school district as authorized by the State Constitution, Section 186 and KRS Chapter 157.
14. Make regulations governing schools as required by authority of KRS 156.160 as follows:
 - a. Keep the school census
 - b. Health, recreation and physical education
 - c. Transportation of pupils
 - d. Special days to be observed
 - e. Budgets and salary schedules
 - f. Uniform series of blanks and forms
 - g. Minimum course of study
 - h. Accrediting common schools
 - i. Constructing and financing public school buildings
15. Rules and regulations for carrying out the purposes of the School Foundation Program Law. KRS 157.320(10)

16. Rules and regulations for the control and operation of child care centers. KRS 158.300 to 158.350
17. Rules and regulations for the effective carrying out of requirements of the laws governing vocational education and vocational rehabilitation. KRS 163.050(3)
18. Rules and regulations for the operation of the school census. KRS 156.080

C. Functions and Services of the State Department of Education

Functions of the State Department of Education may be defined as its broad and comprehensive responsibilities. Its services are the acts performed to discharge the duties imposed by the functions. Functions are few; services are many. The functions and services of the State Department of Education may be classified into three categories, as follows:

Regulatory
Leadership
Operational

1. Regulatory function

- a. **Basis for a regulation.** Regulatory functions are a direct consequence of state authority and responsibility for education. Although state laws have delegated broad authority to local school districts for the management and operation of their educational programs, these laws have also established safeguards to guarantee minimum performance by local districts. These safeguards serve as standards and usually apply throughout the state. Standards are either established by a Legislature or by an agency pursuant to a statutory grant of authority. Regulatory functions must be limited to those enumerated or authorized by statute. These regulations have the force of law. The establishment of standards and the power to enforce compliance is commonly termed a regulatory function. In the school environment the changes in our social and economic life make it necessary for state agencies to assume an ever increased responsibility in this area.
- b. **Purpose of a regulation**
 - (1) To provide for protection of life and health,

- (2) insure minimum instruction and service programs, both in scope and quality,
- (3) promote efficiency in organization and administration,
- (4) require proper accounting and economy in the use of public school funds, and
- (5) insure the availability of educational opportunities

2. Leadership functions

Leadership functions constitute the major responsibility of the State Department of Education. Improvement of community and state educational programs is the outcome of the effective leadership services to local school units, the Legislature, the Governor and other state agencies, and to the public.

Some of the important leadership functions by the State Department of Education are:

- a. Planning
- b. Advisory
- c. Coordination
- d. Public relations
- e. In-service education
- f. Federal coordination

3. Operational functions

The operational functions of the State Department of Education are quite different in character from leadership and regulatory functions. When the Department of Education exercises leadership or regulatory functions, it deals with another agency which is concerned with the operation of a particular institution or program. When exercising the operational function, the State Department of Education is the agency charged with operating the institution or program. In the one case, there is an agency between the Department of Education and the program of operating activities. In the other there is no such agency except in most cases in advisory agency which has only such authority as may be granted by the operating agency.

III

LOCAL BOARDS OF EDUCATION

A. Authority

Local district boards of education are given certain authority by law in operating their schools. The powers given the local

boards of education cannot be infringed upon or bypassed by their rules and regulations of the State Board of Education. The primary difference between the authority given by the Legislature to the local boards and that given to the State Board of Education is principally that of scope and area of authority. The local boards have very great authority as is outlined in KRS 160.290, but it is confined to the school district which is under the board's control. The authority of the State Board of Education is confined primarily to the state program and on a state-wide basis.

So long as the local board acts within its authority and complies with law and the rules and regulations of the State Board of Education, it cannot be overruled. Neither the State Board of Education nor the courts tend to overrule the discretion of the local board. It is therefore important that boards know the law that applies to the particular action which they take. It should be kept in mind that the State Board of Education can disapprove, for example, a budget of a local board of education only if it is not in accordance with law or if it is unsound financially, because it does not provide for the payment of rentals, interest on bonds or other obligations which are due to be paid out of the budget. A board has no authority except what is specifically granted by statute, what is clearly implied or what is necessary for accomplishment of the purpose of the school district. Usually there is very little implied. Specific grants of authority furnish the best basis for an action by the board.

Boards of education should recognize relationship with their chief executive officer as very important for the proper functioning of their school system. They should go about the selection of the superintendent of schools in a businesslike and professional manner. The board should recognize that the most efficient results can be obtained by making the superintendent, in fact, the chief executive officer of the board. They should then hold him responsible for results in the organization and administration of the school system. It should not overlook the fact that rules and regulations and bylaws are as binding on the board as on other bodies dealing with the board, until amended or repealed by an affirmative vote of at least three members of the board.

In carrying out the functions under the general powers and duties outlined in KRS 162.290 the board should do so by means of definite policy statements.

In performing functions and discharging responsibilities outlined in KRS 160.350, 160.370 and 160.380 the board and the superintendent as executive officer of the board should be guided by policies and regulations for carrying out these policies.

B. Policy; Rules and Regulations

One of the most important functions of a board of education is the formation of educational policy. The decisions the board makes may set the course of education in the district. How well this is done depends in a large measure upon the wisdom and care with which decisions are made.

School board policy becomes statements which set forth purpose and prescribe, in general terms, the organization and program of the school system. Policies tell what is wanted. They may also indicate why and how much.

Specific directions, telling how, and by whom, when and where things are to be done may be termed rules and regulations. They apply policy to practice. There may be and usually will be several rules or regulations which will deal with the application of one stated policy. This does not imply that policy should deal only with abstract expressions of theory and philosophy, but they must not become a great mass of detailed directions and instructions.

By virtue of the powers with which it is vested, the school board is the final authority in setting policy. A board is functioning within its recognized sphere of authority when it approves rules and regulations that are consistent with its policy.

A board can quickly find itself in the position of meddling and interfering if it attempts to deal with details that are a part of the administrative organization of the schools. Execution of policy through the detailed steps and procedures of school administration is the job of the superintendent.

A clear understanding by the school board and the superintendent concerning **policy formation** and **policy execution** is one of the most important aspects of good school board policy statement.

There is no prescribed best method of reducing statements of policy to writing. Each board will do the job best when it follows procedures which seem to fit local circumstances.

1. Policy practice

Some of the best policy practices may have become embedded firmly in the operation of the board without ever being recorded in the minutes or elsewhere. For example, the fact that the board always follows the practice of purchasing whatever it can get at the lowest price for a given quality may not be written down anywhere. Putting "unwritten" policies into written statements may be an important part of policy making.

2. Law and policy

It is understood and recognized that the law under which boards operate set many policies as herein defined, that is, they tell what is wanted and many times they tell how much. They sometimes state why. In many instances there are also regulations as herein defined in that they tell how, by whom and when things are to be done. Such statement of policy and regulations in law can only be very general and apply at large to the district or territory to which they refer. There are many details to be worked out in making application of such laws in each local district or school. These details of local administration and operation may need policy or regulation direction, or both.

3. Good policy statement

A good policy statement should be so worded that there can be drawn from it a clear definition of duties and responsibilities of all persons involved—board members, administrators, instructional and non-instructional personnel. It should make clear what the intentions of the board are concerning the services it expects of those employed and the conditions under which they shall work.

4. Why have policy statements

Some benefits of policy formation may be as follows:

- a. **Gives positive direction.** Gives positive direction to the superintendent and others charged with directing the school program by clearly defining their authority and discretion.
- b. **Clarifies relationships.** Clarifies relationships between the board and the superintendent, between the superintendent and the staff and within the staff.
- c. **Aids in the evaluation of educational services.** Enables the board of education to appraise more intelligently the services rendered when responsibility is definitely fixed.

- d. **Reduces pressure and irritations.** Individuals or groups desiring special consideration will know that their case was decided on the basis of established policy rather than on momentary consideration or individual preference.
- e. **Insures better informed board and staff.** Acquaintance with policy, and opportunities in formulating them, build habits of thinking in terms of policy rather than immediate issues. Study of policies speeds orientation of new board and staff members.

5. **A basis for policy statements**

- a. Members of the board as individuals have no authority except when in a legal meeting.
- b. The board can act only at authorized meetings when duly held.
- c. Authority is vested not in a designated number of persons but in the board as a unit.
- d. The board's decisions shall be made as a result of conferences and deliberations in which individual viewpoints are made a group decision.
- e. Each member shall face all school problems with an open mind and with an honest desire to arrive at the best possible solution of the problem before him.
- f. It shall delegate only its administrative and ministerial functions to the superintendent.
- g. It shall reserve its legislative and judicial functions to itself, which may be exercised only in legal meetings.
- h. A decision of the majority of the board is a decision of the board.
- i. It shall eliminate friction in the board meetings by allowing freedom of participating in discussions of questions under consideration.
- j. Hearings before the board shall be conducted in the following manner:
 - (1) Hearing—consideration of the facts and recommendations
 - (2) Adoption of plans, policies and courses of action
 - (3) Authorization of the proper person or persons to carry out the decisions of the board

6. Relationship of board to superintendent, principals, teachers and other staff employees

- a. **To superintendent.** The board reserves to itself the right to determine the general policies of the schools under its direction and authorizes the superintendent to direct the general educational and financial program of the school.
- b. **To the principal.** His relationship to the board shall be through the superintendent as executive officer of the board. It is the belief of the board that this is the best way to fix responsibility and secure coordination of service.
- c. **To the teachers.** Administratively teachers shall be responsible directly to the principal or head teacher in the schools which they serve, the principal or head teacher to the superintendent and the superintendent to the board of education. This relationship should be one of mutual cooperation.
- d. **To the other staff employees.** The superintendent shall be the official who shall coordinate the work of all departments through the school system. Staff workers shall be responsible directly to the superintendent and through him to the board of education.

7. Suggested order of business

Boards of education should adopt a regulation setting up an order of business procedure. The one listed below might be used as the basis:

- a. Call to order by chairman
- b. Roll call of members
- c. Approval of minutes
- d. Hearing from delegations
- e. Report of standing committees
- f. Report of special committees
- g. Report of superintendent and treasurer
- h. Unfinished business
- i. New business
- j. Adjournment

8. Policy statement and rules and regulations

All policies adopted by the board of education should be written and made a part of the minutes of the board on the

date of their adoption. At the time of adoption of a policy the superintendent of the district should be asked to prepare or have prepared such rules and regulations as will be of assistance in putting into operation each policy statement. These regulations should be approved by the board when a consensus of opinion has been reached that they will accomplish the purpose of the written policy statement to which they apply.

9. Special Binder

Both the policy statements and rules and regulations should not only be recorded in the minutes of the board when adopted and approved but should also be recorded in a special binder as a ready reference for all concerned. Dates of the adoption of policies and approval of rules and regulations should be recorded with each policy and each regulation. This will furnish an accurate and methodical procedure for keeping both policies and regulations up to date. Each change in a policy or regulations should not only be in the minutes but it should also show in the special records prepared for them.

10. Publication of regulations

KRS 424.270 provides that on general regulation of uniform application throughout the publication area promulgated by any officer, board or commission of the city, county, or district, which is intended to impose liabilities or restrictions upon the public shall be valid unless and until it, or a notice of such promulgation, together with a statement where the original regulation may be examined by the public, has been advertised by newspaper publication.

IV

SUGGESTED RULES AND REGULATIONS FOR DISTRICT BOARDS OF EDUCATION

A. General Powers and Duties (KRS 160.290)

1. General control and management

Under this authority boards shall exercise generally all powers in the administration of the public school system, appoint such officers, agents and employees as they deem neces-

sary and proper, prescribe the duties, fix the compensation and term of office.

2. Make, adopt and amend rules and regulations and bylaws

Under this authority, boards of education may make, adopt and repeal rules or regulations and bylaws for their meetings and proceedings for the government, regulation and management of the public schools and the school property of their district, for the transaction of their business and for the qualification and employment of teachers and the conduct of pupils.

3. Policies and regulations

Policies and regulations should be made by boards where the laws and rules and regulations of the State Board of Education are not sufficiently detailed to meet the board's needs for putting into operation the laws or regulations of the State Board of Education applicable to the board.

Below are listed certain laws and suggested rules and regulations which it is believed will aid boards of education in meeting requirements of the Legislature which provides for the adoption of certain rules and regulations governing the actions of the boards in the operation of schools under their charge. Where possible, there has been stated the policy, rule or regulation which is generally applicable under the duties assigned.

4. The school law

The first step toward keeping within the law is to know it and its interpretation. This is not, within itself, easy. It is the duty of the superintendents and boards of education to familiarize themselves with the laws relating to their respective duties. When in doubt, they should call upon the State Department of Education for guidance or secure other sound and reliable advice.

It is of little value to know the law, if it is not followed. Administrators should not only know the salient points of the school law governing their official conduct, but they should also observe the mandates of the law in the performance of their various duties. This is a fundamental principal to be kept in mind. This is of especial importance in conducting the financial affairs of the school district.

5. Minutes of the board

It is essential that the minutes of each board meeting be full and complete. They should be revealing and replete with all transactions of the board. Before any transaction can be officially binding, it must be authorized by a majority vote of the board in an official meeting.

The minutes are basic records of financial accounting and represent the formal records for all legal procedures. When accounts are audited these records will be fundamental in checking the legality of all business transactions. Every policy and act of the board, every obligation incurred and all bills paid by the board should be either recorded as a whole in the minutes or designated by an approved code and placed in the official files of the board. In order to be enforceable or defensible every obligation or act of the board should be ordered and approved by the board in legal session and recorded in pages numbered consecutively in the minutes of the board.

In the case of *Lone Jack Graded School District v. Hendricson*, 304 Ky. 317, the Court said the board speaks only through its minutes.

B. Regulations Governing the Organization of the Board

1. Name of the board

KRS 160.160 provides that each school district shall be under the management and control of a board of education, consisting of five members, to be known as the "Board of Education of (Insert name of county or independent district), Kentucky."

2. Boundary of district

(Write boundary if independent district)

3. Time and place of meeting

The board of education of (Name of county or independent district), Kentucky, shall hold its regular meetings on (State date and day and hour) in (State place).

4. Number of meetings

KRS 160.270 provides, "Each board of education shall hold at least one regular meeting each month, at a time and place fixed by the board. Special meetings may be called by the chairman. On request of three members of the board the secretary shall call a special meeting. Each member of the board shall have timely notice of each meeting and the nature, object and purpose for which it is called."

In the case of *Brown v. Turman*, 264 Ky. 407, the Court said all members must have legal notice of meeting of board of education. Electing a superintendent under conditions cited in this case held illegal.

C. Regulations Governing the Procedures of Boards

1. General functions of boards

Each school district shall be under the management and control of the board of education. Each board shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; purchase, receive, hold and sell property; issue its bonds to build and construct improvements; and to do all things necessary to accomplish the purpose for which it was created.

2. Authority and requirements for regulations

- a. KRS 160.290 gives the board of education general control and management of the schools' employees and agents under its jurisdiction. It also gives it authority to make
 - rules and regulations governing its meetings and proceedings for the transaction of its business and for the qualifications of its employees and conduct of pupils in school districts under its management and control.
- b. KRS 161.140 requires boards of education to prescribe the duties that are to be performed by all persons in public school service of their district.
- c. KRS 160.370 provides that the superintendent shall be the professional advisor of the board and that he shall prepare all rules, regulations, bylaws and statements of policy for approval and adoption by the board.

3. Certain specific functions of the board

- a. **Appointment of the superintendent.** KRS 160.350 provides for the appointment of the superintendent of schools whose term of office shall begin on July 1 following the appointment. The term shall be for one, two, three or four years. Before any superintendent can assume his duties, he shall present the board of education that elected him a statement signed by the Superintendent of Public Instruction that he has been duly issued a certificate which qualifies him to hold that position. The superintendent may be removed for cause.

- b. **Executive agent of the board.** KRS 160.370 provides that the superintendent shall be the executive agent of the board and that he shall meet with the board except when his own tenure, salary or the administration of his office is under consideration. As the executive officer of the board the superintendent shall see that the laws relating to the schools, the bylaws, rules and regulations of the State Board of Education and the regulations and policies of the district board of education are carried into effect. It also provides that he shall prepare, under the direction of the board, all rules and regulations, bylaws and statements of policy for approval and adoption by the board. He shall have general supervision subject to the control of the board of deucation of the general conduct of the schools, courses of instruction, the management of teachers, discipline of the pupils and management of the business affairs except as provided in KRS 160.430.

Bourbon County Board of Education et al v. Darnaby, 235 SW (2d) 66. Court held that no legal cause for removal of superintendent by board of education was shown.

The word "cause" in a statute authorizing the removal of officers for cause means legal cause, and not any cause which the Board authorized to make such removal may deem sufficient. It is implied that they cannot be removed at the mere will of those vested with power of removal, or without any cause. It must be a cause relating to, and affecting, the administration of the office, and must be restricted to something of a substantial nature directly affecting the rights and interests of the public. (December 15, 1950)

- c. **School employees.** KRS 160.380 provides that employees of the board shall be made only upon the recommendation of the superintendent subject to the approval of the board. These employees shall have such qualifications as prescribed by law and by rules and regulations of the State Board of Education and of the employing board. Supervisors, principals, teachers and other employes may be appointed by the board of education for any school year at any time after April 1 next preceding the beginning of the school year.

Smith v. Beverly et al., 236 SW (2d) 914. Act of members of school board in refusing to appoint one who had been recommended as principal of high school by superintendent, and employing substitute principals and paying them school funds, rendered members of the school board liable as individuals, jointly and severally, and rendered substitute principals also liable individually for money had

and received by them as illegal employes, if they had knowledge of nomination of nominee. (February 16, 1951)

Marshall, Superintendent, et al. v. Conley, 258 SW (2d) 911. Board of education has authority to transfer teachers from school to school or from position to position in the same school, even though they hold continuing contracts.

Statutes relating to seniority rights of school teachers deals with seniority only as it affects employment and not as it affects position.

Teacher transferred to an elementary school from a high school position and who refused to accept the elementary position admittedly breached any kind of contract which he might claim for himself.

The court would not determine what kind of contract, if any, he should have been given. (June 5, 1953)

Reed et al. v. Greene et al., 243 SW (2d) 892. Janitors, bus drivers and mechanics are "public school employees" within provisions of KRS 160.380. (November 16, 1951)

4. Attendance at meetings

KRS 160.270 provides, "Any board member failing to attend three consecutive regular meetings, unless excused by the board for reasons satisfactory to it, shall be deemed to have vacated his office. A majority of the board shall constitute a quorum for the transaction of business."

The following regulation might be added as further guidance in board meetings:

No member shall leave the meeting without the consent of the presiding officer. At called meetings no business shall be transacted except that specified in the call.

In the case of *Board of Education of Wurtland Independent School District et al. v. Stevens et al.*, 261 Ky. 475, the Court said that the office of member missing three consecutive meetings was not vacant unless action of the board so declares.

In the case of *Baisden v. Floyd County Board of Education et al.*, 270 Ky. 839, the Court said where board member was absent from one meeting and from the next two because of board's failure to inform him of change in time of holding meeting of board, although he made trips to town for the purpose of attending meeting, board's removal of such member was arbitrary and improper.

5. Annual meetings

Kentucky Revised Statutes do not provide for what is sometimes known as an annual organization meeting of the board. It is suggested that the board should adopt rules and regulations as to an annual or biennial meeting. This meeting might be held the first Monday in January when the new of-

ficers take their office or at the first regular meeting day in January, as provided by the board's rules and regulations.

The board shall determine whether the chairman and vice-chairman will be elected annually or biennially. The chairman and vice-chairman must be selected from the membership of the board of education.

Newly elected members of the board of education should take the constitutional oath and the oath required by KRS 160.170 on or before the first Monday in January following their election.

6. Vacancies

KRS 160.190 provides that in case of a vacancy in membership of a board of education for an unexpired term, it shall be filled by the other members of the board within 90 days after the vacancy occurs. If the vacancy is not filled by the other members of the board of education within 90 days, it should be filled by the State Board of Education within 30 days after information filed by any citizen of the district that the vacancy has not been filled for more than 90 days. The person selected to fill such vacancy shall hold office for the unexpired term of the person whose vacancy he fills and until his successor is elected and qualified. The member should be inducted into office at the next regular or called meeting after his appointment. He should take the constitutional oath and the oath as required by KRS 160.170 on or before he takes office.

7. Outgoing superintendent; duties

KRS 160.400 states that, "An outgoing superintendent shall, before his last month's salary is paid, make all reports required by law to date of his retirement and shall have information assembled to date of his retirement for any reports to be made by the incoming superintendent.

8. Employes not to have pecuniary interest in the supplying of goods or services for which school funds are expended; penalties

KRS 156.480 provides that, "If any employe of the Department of Education or the superintendent, assistant superintendent, business manager, purchasing agent, or employe of any county or independent school district shall have any pe-

cuniary interest either directly or indirectly in an amount exceeding twenty-five dollars per year either at the time of or after his appointment to office, in supplying any goods, services, property, or merchandise of any nature whatsoever for which school funds are expended, or if any such person receives directly or indirectly any gift, reward, or promise of reward for his influence in recommending or procuring the use of any goods, services, property, or merchandise of any kind whatsoever for which school funds are expended, then his office or appointment shall without further action be vacant and he shall upon conviction be deemed guilty of a misdemeanor and fined not less than fifty dollars nor more than five hundred dollars."

9. School official or employe not to act as book agent'

KRS 156.460 provides that, "No superintendent, teacher or other offiical or employe of any institution supported wholly or in part by public funds shall act, either directly or indirectly, as agent for any person whose school textbooks are filed with the Superintendent of Public Instruction."

10. Reward for adoption of books forbidden

KRS 156.465 provides that, "No person shall secure or attempt to secure the adoption of any school textbook in any school district in this State by rewarding or promising to reward, directly or indirectly, any person in any public school in the State. No person shall offer or give any emolument to any person in any school district for any vote or promise to vote, or the use of his influence, for any school textbook to be used in this State."

11. Expense accounts and contingent funds prohibited; exceptions

KRS 64.710 provides that, "No public officer or employe shall receive or be allowed or paid any lump sum expense allowance, or contingent fund for personal or official expenses, except where such allowance or fund either is expressly provided for by stattuue or is specifically appropriated by the General Assembly."

D. Regulations for Conducting Business Affairs of the Educational Program

1. Form of school budget

KRS 156.160(11) provides that the Superintendent of Public Instruction shall prepare or cause to be prepared and submit for approval and adoption by the State Board of Education a uniform series of forms and blanks, educational and financial. Such a series of forms have been prepared in accordance with this section. This series of forms includes the forms for use in making school budgets. These forms are furnished to boards of education for their use in preparing budgets.

2. Regulations for preparing budgets

KRS 156.160(10) provides that the Superintendent of Public Instruction shall prepare or cause to be prepared and submit for approval and adoption by the State Board of Education rules and regulations governing the preparation of budgets by the several school districts under the management and control of the State Board of Education. Such rules and regulations have been prepared in accordance with requirements of this section and may be found in Chapter 21 of the volume containing the rules and regulations of the State Board of Education. Their application and directions for using them will be found in the manual entitled "Uniform School Financial Accounting". Copies of this manual may be secured upon request from the Division of Finance, Department of Education.

3. Tax levy

KRS 160.460 provides for the levy of taxes for the support of schools. This tax may include an ad valorem and a poll tax as specified by the district board.

The tax levying authority shall make an annual school levy not later than July 1 of each year. This section further provides that if for any reason there is a failure in the levy of tax by the prescribed date, such failure shall not invalidate any levy made thereafter.

It further provides for determining the assessment valuation of property subject to local taxation as certified by the Kentucky Tax Commission.

4. Preparing the school budget

KRS 160.470 provides that each board of education shall prepare a budget which shall be filed with the clerk of the tax levying authority of the district within three days after the school district has received its assessment data and that the clerk shall present the budget to the proper tax levying authority. Within three days after tax levying authority has fixed the rate, the district board of education shall forward two copies of the budget to the State Board of Education for its approval or disapproval. The budget shall be disapproved if it is financially unsound or fails to provide payment for maturing principal or interest, payment of rentals in connection with any outstanding school building revenue bonds for the benefit of the district or it fails to comply with the law. If the State Board should disapprove it, it shall state its reason or reasons for such disapproval. In such event the district board of education shall amend its budget to obviate the reasons for disapproval. If the amended budget specifies a tax levy different from that levy under the disapproved budget, the tax levying authority shall amend its levy in accordance therewith. No budget shall become effective until approved by the State Board of Education.

5. Publishing the school budget

KRS 424.250 provides that at the same time copies of the budget of a school district are filed with the clerk of the tax levying authority for the district as provided in KRS 160.470, the board of education shall cause the budget to be advertised for the district by publishing a copy of the budget in such a newspaper as will meet requirements of law.

6. Close estimate or working budget

KRS 160.470 also requires that each district board of education shall, if required by the State Board of Education, prepare and submit to it not later than September 15, a close estimate or working budget which shall conform to rules and regulations prescribed by the State Board of Education, and which shall be consistent in its major divisions with general school budget previously prepared.

A regulation of the board for the budget preparation might read somewhat as follows:

The superintendent, as executive officer of the board, and the secretary of the board under the direction of the superintendent, shall be responsible for the assembling of the data, formulating the budget and computing the rate of levy which shall be passed on by the board of education. All information shall be gathered and assembled for attention of the board so as to meet requirements of dates listed in statutes or any regulation of the board. In case there is any delay in carrying out the requirements of this regulation, the superintendent shall report to the board the reasons therefor and the progress that is being made in conformity with the requirement.

7. Taxing for school purposes, minimum and maximum rates; poll tax

KRS 160.475 provides a minimum ad valorem school tax levy for school purposes other than for sinking fund purposes of not less than 25 cents annually on each \$100 of property subject to local taxation nor more than \$1.50 annually on each \$100 of property subject to local taxation. For possible exception to this maximum levy see KRS 157.380(3).

This section also provides that the district board of education may levy a poll tax, not exceeding \$2.

8. Budget shall not be exceeded

KRS 160.550 provides that no superintendent shall recommend and no board of education shall vote for an expenditure in excess of the income and revenue of any year, as shown by the budget adopted by the board and approved by the State Board of Education, except for a purpose for which bonds have been voted or in case of an emergency declared by the State Board of Education.

KRS 160.990(5) prescribes a penalty of \$50.00 to \$100.00 and possible removal from office of the board and superintendent if they exceed the budget without permission of the State Board of Education.

Bell et al. v. Board of Education of Shelby County, 308 Ky. 848, 215 SW (2d) 1007. Undertaking by county board of education to erect a new school building and issue revenue bonds to finance the project without submitting revised financial program in the form of an amended or supplemental budget to the State Board of Education and obtaining its approval thereof was without legal authority and subject to injunction. (December 17, 1948)

9. District boundaries

KRS 136.190 provides that the superintendent of schools of each district shall furnish franchise paying corporations a copy of the district boundaries of his school district. These corporations should be furnished a copy of the boundaries of the district any time a change in the boundary lines is made which will affect the amount of the assessed property belonging to the corporation.

10. Property subject to taxation

KRS 132.190 enumerates the classes of property subject to taxation. KRS 132.150 provides for valuation and tax rate on distilled spirits.

National Distillers Products Corporation v. Board of Education of Franklin County ex rel. Reeves, 256 SW (2d) 481. Under statute permitting the deferment of payment of ad valorem liquor taxes on each September 1 assessment of whiskey in certain instances, tax rate levied for school purposes in the calendar year after each September 1 assessment date was applicable, and not tax rate levied prior to September 1 assessment to whiskey held in bond after due date for payment of general ad valorem taxes. (March 27, 1953)

11. Penalty for tax delinquency

KRS 160.520 provides that the laws applying to penalties on and the collection of delinquent school taxes shall be the same as the general laws applying to penalties on and the collection of delinquent taxes of taxing districts which embrace the various school districts.

City of Pineville v. Board of Education of Pineville Independent School District, 272 Ky. 636. Penalties and interest on taxes collected by fourth-class cities for school purposes shall be paid to the board of education. (May 5, 1938)

12. Financial records and reports

KRS 160.340 provides each board of education shall, on forms to be furnished by the Superintendent of Public Instruction and approved by the State Board of Education, prepare and submit reports on all phases of its school service. Regulations of the State Board of Education provide that these forms shall be filed with the State Department of Education.

A regulation in this connection might be adopted by the board of education providing that the superintendent shall

prepare a budget on forms required by law and the rules and regulations of the State Board of Education. This regulation might require that these forms be brought to the attention of the board for their information and approval as will be shown by the minutes of the board.

The State Board's manual "Uniform School Finance Accounting" in the fourth paragraph on page 287 states, "There is a high correlation between the efficiency and education success of a school system and the accuracy and thoroughness of its financial records." . . . "The official documents, instruments and reports from all local school districts become the basis for records and data filed with the Superintendent of Public Instruction." They are therefore the basis for determining a degree of legal successful operation of a particular system.

13. Secretary of the board of education

KRS 160.440 provides that each board of education shall appoint a secretary for a term of from one to four years. The superintendent of the district may serve as secretary. The board of education may fix a reasonable salary for the secretary. In independent districts embracing a city of the first or second class the board may appoint a business manager or the assistant superintendent in charge of business affairs as its secretary. The secretary shall keep the records of the board and sign all orders of the board. He shall be custodian of the security documents and title papers, etc. as the board may direct. If the secretary is other than the superintendent, he shall make all records of the board available to the superintendent and any information as is revealed by the records of the board on request by the superintendent.

Reasonable salary for the superintendent, as secretary of the board, should be based upon defensible considerations and stated facts since KRS 160.390(2) provides that the superintendent shall devote himself exclusively to his duties.

14. Regular tax collector

KRS 160.500 provides that state school taxes shall be collected by the regular tax collector of the tax levying authority for the particular school district. These taxes shall be col-

lected at the same time and in the same manner as other local taxes are collected except as provided otherwise in this section or in KRS 160.510.

Taxes so collected shall be paid to the depository of the district of the board of education on or before the tenth day of each month. The amount turned over shall be all school taxes collected up to and including the last day of the preceding month.

KRS 134.300(4) authorizes county judge to grant an extension of time of as much as fifteen days for payment of funds collected. This applies also to KRS 160.510.

Compensation of tax collector shall not be more than 4 per cent. No allowance shall be made for the collection of school taxes to any collecting officer who continues to collect taxes after his term that would not be allowed him had he collected the taxes during his term.

In determining the fee not to exceed 4 per cent, KRS 134.310 sets out in specific detail the procedure the tax collector shall follow in determining the fee which he may receive for collecting school taxes.

15. Special tax collector

KRS 160.500, paragraph 2 authoriezs independent districts to employ a special tax collector. When this is done the clerk shall be allowed a fee not to exceed 3 cents for each separate school tax bill made for the independent district. This 3-cent fee shall be paid from the funds of the independent school district.

The independent school districts shall fix a fee for the special tax collector at a rate of not less than 1 per cent nor more than 4 per cent of the school taxes or funds collected by such special tax collector from the local school levy in such independent district.

The tax collector as well as the special tax collector shall give a bond to cover his duties as well as the amount of tax which he collects.

In determining the fees for collecting taxes as set out above, three court decisions will help to interpret the law in

134.310 and such other procedures as must be considered in determining the fees as outlined therein.

Board of Education of Mason County et al. v. Collins, 259 SW (2d) 17. Where board of education contended that reasonable fee for collection of school taxes in the amount of \$201,210.40 by sheriff should not exceed \$800, and the sheriff withheld fee of \$8,048.40, and the court determined that the sheriff was entitled to \$3,782.75, as compensation, and that the sheriff was liable for interest on amount in excess of the commission allowed him, court properly divided the costs between the board and the sheriff. (June 19, 1953)

Wells, Sheriff, v. Board of Education of Menifee County et al., 243 SW (2d) 160. Where the sheriff did work of collecting the school taxes himself and did not employ a deputy, proper basis for determining his compensation was reasonable value of time required to be expended by the sheriff.

The integrity, judgment and responsibility required of the sheriff, as elected public officer, are elements to be considered in determining value of his services, and such value should not be limited to the sum for which a competent clerk could have been hired. Approximately \$1,100 computed on the basis of \$250 per month, was proper compensation for the sheriff's services for collecting taxes of \$39,812 in relatively poor county. (December 6, 1951)

Board of Education of Madison County et al. v. Wagers, Sheriff-Tax Collector, et al., 239 SW (2d) 48. Under the constitutional provision, the school fund which may not be diverted from other than school purposes is only the net amount of school taxes produced after deducting the fee chargeable to his collection as long as the fee reasonably approximates the cost of making the collection, but if the fee percentage produces a substantial sum applied to use of other than paying the reasonable cost of collections then a part of the school tax is appropriated to something other than "school purposes" in violation of the Constitution. (February 16, 1951)

16. Treasurer

KRS 160.560 provides that the board shall elect a treasurer and that the secretary may serve as treasurer. The treasurer shall give bond for faithful performance of the duties of his office. This bond shall be approved by the State Board of Education. It shall be guaranteed by a surety company authorized to do business in the state, and shall be in an amount to be determined by the board of education in accordance with the rules and regulations of the State Board of Education. The premium on the bonds shall be paid by the board of education. A copy of this bond shall be filed with the State Board of Education.

The treasurer shall withdraw funds from the depository only upon proper order of the board. He shall keep full and

complete account of all funds and make such reports as required by the State Board of Education.

The treasurer shall issue checks on the depository in payment of all legal claims which have been authorized for payment in accordance with rules and regulations previously adopted by the local board of education and approved by the State Board of Education.

KRS 424.220 provides that local officers shall make annual statements of collections of receipts and expenditures within 60 days after the close of the fiscal year and cause statement to be published newspaper qualified under KRS 424.120, and provides penalty for not doing so.

Lewis et al. v. Morgan et al., 252 SW (2d) 691. County board of education possesses not only the powers specifically conferred by statute, but also such implied powers as are reasonably inferable from the express powers and objectives to be obtained by creation of such board.

Statutory provisions requiring annual audit of school building funds by a public accountant or accountant approved by the Superintendent of Public Instruction are not mere grants of power to county board of education to conduct audits but create an absolute duty which boards are required to perform.

Statutory provisions requiring audits of school building funds, authorizing county boards of education to require audits of accounts and records of outgoing treasurer of school board and providing for depository of school funds and authorizing county boards of education to have audits made of records of depositories are merely additions to powers of county boards of education, and are not intended to limit or restrict inherent powers of boards of conduct their fiscal affairs. (November 7, 1952)

17. Depository

KRS 160.510 and 160.570 provide that the board of education shall select a depository to which tax collector shall pay taxes which he collects. The depository shall be a bank or trust company and may be designated for a period not to exceed two years. Before entering upon its duties, it shall agree with the board as to the rate of interest to be paid on the average daily or monthly balances. It shall execute a bond for faithful performance of its duties. This bond shall be approved by the local board of education and the State Board of Education. The bond shall be acceptable to the Superintendent of Public Instruction as to the penal sum and as to the type of bond. The bond may be written by a surety company. The

premium may be either paid by the board or the depository. If the board pays the premium, the depository shall allow the board not less than 2 per cent on the average daily or monthly balances. The tax collector shall make final settlement with the district board of education at the same time it makes final settlement with the local taxing authority. Blank forms will be furnished by the State Department of Education. The tax collector shall pay the depository of the board of education, on or before the tenth of each month, the amount of taxes collected up to and including the last day of the preceding month. Possible exception—KRS 134.300 (4)

In this connection a policy might read as follows:

The superintendent of the district shall be responsible for seeing that laws are obeyed and report to the board monthly.

18. Corporate franchise and railroad taxes

KRS 136.050 states when taxes on corporate franchise and railroads are due.

19. Special funds

- a. KRS 160.580 makes provision for grants, gifts or devise to school boards and their use.
- b. KRS 160.590 provides that the board of education in a district owning a fund from which it receives only income, if there is no constitutional or other lawful provision to the contrary, may convert the same to the general school fund.

20. Borrowing for current expenses

KRS 160.540 and 287.290(3) give the legal procedure and authority for borrowing money in anticipation of taxes. Under this authority boards of education may borrow money on the credit of the board and issue negotiable notes in anticipation of revenue from school taxes for the fiscal year in which the money is borrowed and may pledge the school taxes for payment of the principal and interest on the loan. The rate charged shall not exceed 6 per cent per annum and the principal borrowed shall not exceed 75 per cent of the anticipated revenue for the fiscal year in which the money is borrowed. In all cases loans shall be repaid within the fiscal year in which the loan is made.

21. **Bond issues**

KRS 162.080 to 162.100 authorize bond issues for school sites and buildings and prescribes the procedures to be followed in taking the vote issuing the bonds and the limitations on bond issues for such purposes.

22. **Procedure in making purchases**

a. **Real estate.** KRS 162.010 provides the title of property owned by a school district is vested in the Commonwealth of Kentucky for the benefit of the district board of education. It also provides that in the acquisition of land for school purposes, whether by purchase or condemnation or otherwise, the title obtained shall be in fee simple, except that title to land received from the federal government or any agency thereof can be received in other than fee simple with approval of the Attorney General of the Commonwealth.

KRS 162.030 provides that when a board of education is unable to make contract satisfactory to the board with the owner for the purchase of real estate to be used for school purposes, it is authorized to initiate condemnation proceedings as authorized by KRS 416.010 to 416.080; KRS 416.120; and KRS 416.230 to 416.310 and the title to the land so obtained shall be vested in fee simple.

b. **State Board of Education Regulation 22.030.** This State Board of Education Regulation provides that the selection and purchase of school sites, or the disposal of any site or part of a site, shall first be approved by the Superintendent of Public Instruction.

c. **Buildings, repairs, supplies and materials. (1) School building fund.** KRS 160.476 provides that a board of education may levy and set aside an income from the levy of 4 cents to 20 cents out of the maximum levy of \$1.50 authorized by KRS 160.475 to be known as School Building Fund.

(2) **Special voted school building fund.** KRS 160.477 provides that boards of education may provide a special voted school building fund by a vote of the people for special school building tax of not less than 5 cents nor more than 50 cents on each \$100 of taxable wealth. This tax is in addition to the maximum school levy provided for by KRS 160.475.

- d. **Bids for materials, supplies and equipment.** KRS 162.120 through 162.300 gives authority to boards of education to obtain buildings for school purposes by proceeding under the provisions of these sections. Under this plan the board of education is given authority to lease buildings. The lease by its terms shall give the lessee the right and option to extend the terms of the lease from year to year, for periods of one year until the original term of the lease has been extended for a total number of years, not exceeding 30 years at a rental which, if paid for by the original terms and for each of the full number of years for which the term is extended, will amortize the total cost of the erection of the building and appurtenances.
- f. **Kentucky School Building Authority.** KRS 162.510 through 162.620 provide for issuing bonds by the Kentucky Public School Authority whereby a district may secure buildings and appurtenances.
- g. **Plans and specifications.** KRS 162.060 provides that the Superintendent of Public Instruction shall be furnished with a copy of all plans and specifications for all new buildings, for all additions to buildings and for all alterations of old buildings. He shall approve or disapprove them in accordance with rules and regulations of the State Board of Education. Boards of education may not award a contract for new buildings, for an addition or for alterations of old buildings until the plans and specifications therefor have been approved by the Superintendent of Public Instruction.
- h. **State Board of Education Rules and Regulations.** KRS 156.160 provides that the Superintendent of Public Instruction shall prepare and the State Board of Education shall adopt regulations for the sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings and classrooms.
- i. **Minor repairs, supplies and equipment.** A local board policy in this connection might read somewhat as follows:

On requisition of the person who has need, the superintendent of the district shall be responsible for all minor repairs and for the purchasing of supplies and equipment needed.

As provided for and required by KRS 160.370, the superintendent should submit for the approval of the board, regulations for putting this policy into effect.

- j. **Standards for evaluating and awarding contracts.** Boards of education should adopt a policy for awarding contracts which shall be effective in places where no standards are otherwise provided. Such standards should be observed in awarding contracts and might read as follows:

It shall be the policy of this board to observe the following standards for evaluating and awarding contracts:

- (1) To establish a feeling of fair dealing toward all bidders and contractors.
- (2) To give all local dealers an opportunity to bid on all materials they sell and which are needed by the board
- (3) Not to withhold confidential information from some companies and give it to others
- (4) Not to favor local dealers, unless their products are as good as competing companies
- (5) Not to be influenced by political or family connections
- (6) Not to distribute business among the several companies except on the basis of lowest and best bidder or to give personal preference to any of these companies
- (7) To establish definite standards of comparison of products and to use them in determining to whom contract shall be awarded
- (8) Not to knowingly permit collusion among bidders
- (9) The board will feel justified in taking drastic measures when the conduct of bidders falls below high standards of business procedure
- (10) No superintendent, member of the board, or employe thereof shall receive any reward for service in connection with the placement of an order

KRS 156.480

- (11) All activities in taking bids shall be based on legal authority for such bidding and the forms for bidding will be made in such manner as will give full information concerning the products desired and provide a definite basis for competitive bidding.

KRS 160.370 provides that the superintendent should prepare policy statements and rules and regulations for approval and adoption by the board.

23. Procedure in paying claims

A regulation of the board may read as follows:

All claims against the board shall be filed with the superintendent or business manager before the regular meeting of the board. Claims should have the approval of the person or agent who was authorized to make the purchases, before they are filed. They shall also have the approval of the superintendent or business manager before they are presented to the board. All claims shall be itemized in such a manner that the person making the purchase, the date of the purchase and the place where the item was used will be shown in the bill, before it is presented to the board of education for approval as a claim against the board. The board of education will provide a form suitable for presenting the list of items purchased in the manner indicated above.

After the claim has been approved by the board, unless otherwise provided by board policy, it shall be presented to the treasurer and depository in the manner provided in rules and regulations of the local board of education and KRS 160.560(4), as provided for therein.

KRS 156.380 provides that the superintendent shall be responsible for preparing such regulations for adoption by the board.

24. Responsibility for financial accounting

KRS 156.160(11) provides that the Superintendent of Public Instruction shall prepare or cause to be prepared and sub-

mit for approval and adoption by the State Board of Education a uniform series of forms and blanks, educational and financial. The system of financial accounting for boards of education will therefore be the uniform system adopted by the State Board of Education under authority cited above. Such a series has been prepared and is now in use. A regulation in this connection should read somewhat as follows:

The superintendent of the district shall be responsible for the manner in which the accounts are kept and preserved. He shall be responsible for the business affairs as outlined in this section of the statutes.

Independent districts containing cities of the first and second class may elect a business manager as provided for in KRS 160.430.

The superintendent should be requested to prepare or to have prepared any written policies and regulations which may be needed in this connection.

25. Publishing annual statement

KRS 424.220 provides that every school district excepting the cities of the first and second class and county school districts containing cities of the first or second class shall at the expiration of the fiscal year prepare an itemized, sworn financial statement as required by this section of funds collected, received, held or disbursed for the fiscal year just closed.

26. Tuition rate for pupils

KRS 158.120 provides that any board of education may charge a reasonable tuition fee for children attending its schools whose parent, guardian, or other legal custodian is not a bona fide resident of the district. The board of education should, therefore, pass a regulation setting the rate of tuition for both elementary and high school pupils who are non-residents of the school district. It might read as follows:

Tuition Rate for Non-resident Pupils

1. **Elementary.** The rate of tuition for non-resident pupils attending the elementary schools in this system shall be \$_____ per month, or \$_____ per year for a term of _____ months.

2. **Secondary.** The rate of tuition for non-resident pupils attending the secondary schools in this system shall be \$_____ per month, or \$_____ per year for a term of _____ months.

27. Eligibility for tuition

- a. **Eligibility regulations.** KRS 158.140 and rules and regulations of the State Board of Education make provision for determining the eligibility of pupils to enter high schools.
- b. **Convenience for attending school in another district.** KRS 158.130 makes provision for the board of education to permit pupils to attend other districts than the one in which they reside. Boards of education have authority to make any regulations concerning these two provisions as stated in this section and which are not contrary to law. Where it is at all possible, pupils should be permitted to attend other schools when they do not have reasonable access to the school within their own district and can more conveniently attend a school elsewhere. Boards should have written stated regulations for this purpose.
- c. **Special education.** KRS 157.280 to 157.300 provide for furnishing special educational facilities by districts other than that of a child's residence.
- d. **Non-resident pupils under Foundation Program.** KRS 157.350(5) permits districts to be eligible for aid under terms of the Foundation Program if it includes no non-resident pupils in average daily attendance except by written agreement with the district of the pupil's legal residence.
- e. **Out-of-district children.** KRS 160.631 and 160.632 provide for reimbursement by the Department of Education out of funds not required by law to be expended for other purposes for providing educational facilities for out-of-district pupils as defined by this law.

28. Internal accounting; State Board of Education regulations

State Board of Education regulations require that boards of education shall prescribe rules and regulations for the proper management, supervision, and control of funds raised by school activities of any kind, clubs or societies, by any

group or class, athletic activities of any kind, school publications, debating, dramatics, musicals, or other activities relating to school programs, and raising and expending funds for any, or all, such purposes.

These regulations shall provide for at least annual auditing of internal accounts, and for the dismissal, or other reasonable penalty, for professional and other employees or pupils who violate such regulations and for prohibiting such fund raising activities as may be deemed unwise for reasons to be stated in each case which it prohibits.

The board shall require that a bid be taken for any purchase order which exceeds the amount authorized for the purchase by the board without taking bids.

A department bulletin entitled "A Proposed Program of Accounting for Extracurricular Activity Funds in Kentucky Schools" is available. In order to comply with these requirements of the State Board Regulations it is suggested that this bulletin be used as a basis for meeting the requirements of the State Board of Education as outlined above.

29. Use of school money

- a. **How money may be expended.** KRS 160.530 provides that, "The money collected by taxation under the provisions of KRS 160.460 to 160.520 and other school money shall be expended by the board of education in accordance with the recommendations contained in the budget submitted to the tax levying authority.
- b. **Supervision of accounts.** KRS 156.160(10) (11), 156.200 and 157.060 provide for the supervision of accounts of the boards of education and institutions by the Superintendent of Public Instruction.
- c. **Distribution of public school funds.** Section 186 of the Constitution provides authority for distributing school funds. The laws governing the distribution of funds in accordance with this section of the Constitution are found in Chapter 157 of the **Kentucky Common School Laws**.
- d. **Boards of education may not lend credit.** Section 179 of the Constitution provides that school district boards of education may not lend their credit or become stockholders in corporations.

Board of Education of Kenton County v. Highland Cemetery, 292 Ky. 374. Board of education must spend funds for purposes for which they were voted or levied. Where board used funds for general purposes which were collected over and above what was needed for bonds and did not pay bonds the board cannot refuse to pay bonds when due. (December 8, 1942)

30. Foundation Program

- a. **What is it?** KRS 157.330 states that there is established a public school foundation program fund which consists of appropriations to be distributed to districts. This fund shall be paid into the State Treasury, and shall be drawn out or appropriated only in the aid of public schools as provided by law.
- b. **Purpose.** KRS 157.310 states that it is the intention of the General Assembly to assure substantially equal opportunities in public school education, through a foundation program, but not to limit or prevent any school district from providing educational services and facilities beyond those assured by the foundation program.

This section further states that it shall be interpreted as a measure to provide for an efficient system of public schools throughout the Commonwealth, as prescribed by Section 183 of the Kentucky Constitution, and for the distribution of public school funds among districts and its use for public school purposes, as prescribed by Section 186 of the Constitution.

- c. **Eligibility of the district to participate.** KRS 157.350 provides that districts shall be eligible to participate when they:
- (1) Employ and compensate the teachers for the number of months required by law
 - (2) Operate all schools for a term as provided by law
 - (3) Compensate all teachers on the basis of a single salary schedule and in accordance with the provisions of the law
 - (4) Meet the required local tax effort
 - (5) Include no nonresident pupils in its average daily attendance except by written agreement with the district of the pupils' legal residence

- d. **Four areas of support.** These areas are:
- (1) A school plant in which the school is to be housed
 - (2) Transportation for the pupils attending school
 - (3) Qualified and professionally trained teachers
 - (4) Materials and supplies to be used in the operation of the program
- e. **Other features of the law.** The law states in detail the general procedures to be followed for determining the needs under each of these major aspects of the school program. The funds are distributed on the basis of actual attendance in the respective districts. The law sets out detailed procedure for determining local ability and the amount to be distributed to each district.

Funds are sent to the district essentially on the basis of actual service units and average daily attendance. Before funds may be allotted, there must exist units for which they are allotted. There must exist classroom units before funds can be allocated to Capital Outlay, teachers' salaries and operational supplies and materials.

The Superintendent of Public Instruction and the State Board of Education are given a major responsibility of implementing the program by authorizing the State Board of Education to adopt rules and regulations for this purpose on the recommendation of the Superintendent of Public Instruction.

In carrying out the purposes of this law under the rules and regulations of the State Board of Education, it will be necessary for local boards of education to set policies, rules and regulations for the guidance of their local school administrative organizations. Such policies, rules and regulations should be in writing and recorded in the files of the board.

E. Regulations Respecting All Professional Personnel

1. Time of election

- a. **Superintendent.** KRS 160.350 provides for the election of the superintendent. The new contract for the superintendent should be made in time for him to plan his program before he assumes his duties the following July 1. Accord-

ing to Statute, the board may fix the length of the term of contract, but not to exceed four years. The board of education should be guided as to the time of election of the superintendent in accordance with the Court decision.

Maynard v. Allen et al., 276 Ky. 485. In this case, the Court said the superintendent may be appointed before the first day of April in the year in which his term begins, provided the appointment is made by the same board authorized to act at the time the vacancy occurs and by members whose terms extend beyond the date when his term of appointment to office begins.

Before a superintendent can legally assume his duties of the office to which he is elected, he shall present to the board of education that elected him a statement issued by the Superintendent of Public Instruction that he has been issued a certificate in Administration and Supervision which qualifies him to hold the position to which he has been elected.

- b. **Teaching personnel.** KRS 160.380 provides for the nomination and election of teachers. According to this law, supervisors, principals, teachers and other employes may not be elected for a full term until after the first day of April next preceding the beginning of the school year. This teaching personnel should be elected as early after the first day of April as it is practicable.
- c. **Re-employment of teachers.** KRS 160.750(2) provides that teachers in the employ of the board by a limited contract are automatically reemployed unless the employing board shall give them a written notice on or before the thirty-first of March of its intention not to reemploy them.

Beckham et al. v. Kimbell et al., 282 Ky. 648. In this case, the Court held that the county board of education was compelled to elect teachers nominated by the superintendent if they are legally and morally qualified. The burden of showing lack of qualifications is on the board of education.

Law contemplates that nominations be made before July 1.

2. Qualification

KRS 161.010 to 161.100 sets the authority for issuing teacher certificates. In most cases the qualifications outlined in these sections are minimum. Boards of education have full authority to require additional training and experience for any school position.

It is not necessary that the teacher hold a certificate and have the qualifications the board requires at the time the teacher is elected. The teacher must have a certificate which qualifies her for the position and meet the educational and experience requirements of the board when she begins her contract.

Martin v. Knott County Board of Education, 276 Ky. 483. Qualifications for teachers were fully discussed in this case. The Court said qualifications of an applicant must be determined at the time the teacher begins fulfillment of the contract and not at the time the application is made.

Daviess County Board of Education v. Vanover, 219 Ky. 565 and *McLeod v. State*, 122 S. W. 737. The Court said when a teacher has completed the qualifications required by the Commonwealth of Kentucky and is not otherwise unfit morally or in ill health, and meets the educational standard fixed by the county board of education, he has a right to teach in the common schools and that an attempt of the county board of education to prevent married women who meet the above qualifications from teaching in the county schools is unauthorized and an abuse of discretion.

3. Teacher Tenure Law

KRS 161.720 to and including KRS 161.810 provides that teachers may hold their positions during their competency and good behavior. Boards of education have ample authority to extend such provisions to all of their employes. They may be dismissed as provided in KRS 161.790.

When a board of education requires qualifications over and above those set by the Statutes and the rules and regulations of the State Board of Education, it should be done by definite written policies and regulations.

Cooksey v. Board of Education of Fairview Independent School District, 316 SW (2d) 70. Statute, entitling any teacher who has taught six years or more and is eligible for continuing contract but has not received such contract to written continuing contract as employed for the school year 1955-56 did not require teaching in the six successive years immediately preceding the 1955-56 school year, and it was sufficient thereunder for the teacher to (1) have taught six years, (2) hold certificate as defined in the Statute, and (3) be employed for the school year 1955-56.

Efforts of the plaintiff in attempting to establish her rights as a teacher in the district, and upon failing to do so, in attempting to mitigate damages by seeking employment elsewhere were sufficient to entitle her to salary due under contract to which she was entitled. Under such circumstances, members of the board of education were personally liable for the plaintiff's salary.

Mrs. Cooksey urges that she was entitled to at least a two-year contract under KRS 161.750 due to her 1954-55 employment. The Court said since we believe that Mrs. Cooksey was entitled to a continuing contract under KRS 161.470(d), it will be unnecessary to discuss this argument. KRS 161.720, 161.740(d), 161.750, 161.990

Ball v. Bunch, 324 SW (2d) 828. The appellee held a limited teacher's certificate which entitled her to be reemployed at the same salary unless the board of education gave her written notice on or before March 31, of its intention not to reemploy her. The Court found as a fact, upon ample evidence, that the teacher had not been so notified. The short delay in obtaining a renewal certificate from the Superintendent of Public Instruction did not, under the circumstances, as the Court found, justify the board in its action denying her the right to teach.

The motions are denied and the judgments stand.

The combined motions for an appeal from (1) a judgment for \$2,160 against the Whitley County Board of Education in favor of Leila Bunch for salary as teacher for the school term 1956-57 which she would have earned had she taught but was wrongfully denied the right, and (2) from the judgment in a consolidated action setting aside an order sustaining charges of incompetency of the appellee. KRS 161.750(2)

Floyd County Board of Education v. Slone, 307 SW (2d) 912. Plaintiff, who had been ineligible for office or position of teacher because she held no certificate and who had failed to qualify for such certificate during the period for which her salary was withheld, taught as a volunteer and was entitled to no compensation for services rendered during this period. KRS 161.040

Board of Education of Pike County v. Justice, 268 SW (2d) 627. Where county board of education during the term of contract transferred the principal of the school to another position affording less compensation, the principal was entitled to receive for the rest of the term the compensation attached to the former position, but for years beyond the term was entitled only to compensation due in the new position.

Williamson v. Cassady et al., 311 Ky. 666. Under Teacher's Retirement and Tenure Act, board of education on recommendation of county superintendent of schools had authority to transfer principal of a high school to a teaching position in another high school although it did not have authority to reduce teacher's salary. (November 18, 1949)

Board of Education of Floyd County, et al. v. Moore, 264 SW (2d) 292. In this case the appellee's first employment was for the school year 1950-51. The minimum term of his re-employment under provisions of KRS 161.750(c) was two years, which would have extended through the school years 1951-52 and 1952-53. Under the facts of this case, the board, upon the second employment, had no more right to employ the appellee for one year than it did for ten years. We think the word "may" has reference to the discretion of the board in employing teachers under limited contracts within the minimum and maximum limits provided by the statute.

The board had the unquestioned right to transfer appellee from position of assistant supervisor to that of teacher in the Martin High School, but it had no authority to reduce his salary for the school year 1952-53 since his employment was required to extend through that term. (December 4, 1953)

Payne et al. v. Bush, 249 SW (2d) 789. A teacher, eligible for a continuing contract under the Teacher's Retirement Act, after having taught two years under a limited contract, acquires no absolute right to a continuing contract or subsequent re-employment under limited contract. (June 20, 1952)

4. Duties of employees prescribed by regulation

KRS 161.140 provides that each board of education shall prescribe the duties to be performed by all persons in the public school service of the district. The regulations provided for in this section of the law should be stated in definite written policies and regulations for carrying out the purpose of the policies.

These statements should be prepared by the superintendent for adoption and approval of the board.

5. Removal from employment

KRS 160.290, 160.350, 160.360, 160.380, 160.390 and 160.990 provide for the employment and removal of a school employee. The superintendent and the board of education should consult these sections for the duties of employees and the removal of employees.

Since KRS 160.380 provides that the superintendent shall be the professional adviser of the board, all changes in position or removal from service should have his recommendation.

6. Contract forms

KRS 156.160 requires the Superintendent of Public Instruction to prepare a uniform series of blanks including forms of contract. Both limited and continuing contract forms have been prepared to meet requirements of KRS 161.750. These have been adopted by the State Board of Education and should be signed by teaching personnel employed by boards of education.

Leslie County Board of Education v. Melton, 277 Ky. 772 and *Bullock v. Brown*, 258 Ky. 522. These cases set the situations and conditions requiring written contracts for teachers.

7. Physical fitness of employees

KRS 160.290 provides that boards of education may adopt rules and regulations concerning the management of the public

schools under their jurisdiction. Authority granted by this section of the Statutes permits boards of education to adopt policies and regulations requiring of the teaching personnel certificates of physical fitness before they may be employed in the school system.

Some boards of education have a regulation somewhat as follows: Before a teacher shall enter upon her duties of teaching as required, she shall file with the superintendent of schools a certificate from a reputable (or a designated) physician showing that the teacher has been examined by the physician within sixty days next before the opening of school and that she possesses good health and physical vigor.

Montgomery County Board of Education et al. v. Messer, 257 Ky. 836. In this case the Court said that boards of education may establish qualifications higher than the minimum required by the Statutes.

8. Provision for payment of salary

KRS 157.320(13) provides that a salary schedule form made in accordance with authority of KRS 156.160 shall be used by boards of education. Each board shall pay its teachers according to a salary schedule which shall include training, quality of service, experience and such other items as the State Board of Education may approve.

KRS 157.290(2) provides that the average salary paid to any rank of teacher shall be at least equivalent to the public school Foundation Program Fund allotment for that rank as established in said section, and no teacher shall be paid less than 90 per cent of the public school Foundation allotment for that rank.

Salaries shall be payable each month. Should any teacher, principal, or superintendent fail to make any report due, salary for the current month may be withheld until such report is made. A regulation should be made concerning withholding salaries before it is put into operation.

9. Professional advancement

Under the authority of KRS 161.140, boards of education have authority to make regulations which will encourage professional advancement of teachers. They should be encouraged to advance professionally by taking extension courses,

correspondence courses, summer school, travel studies, etc. A regulation in this connection might read somewhat as follows: It will be the policy of this board of education to give recognition to such efforts for advancement in so far as possible in its salary schedule. Regulations governing its efforts in this connection should be adopted for putting this policy into effect.

10. Provision for visiting day, field trips, etc.

KRS 161.140 authorizes boards of education to make provision for visiting day and field trips in the regulations which it may adopt to carry such policy into effect for its employees. Such a policy might read as follows: It shall be within the discretion of the superintendent to grant permission to a teacher or teachers to be absent to visit designated schools for improvement in professional work and to permit field trips, visits and excursions by classes when he deems it of value. Definite regulations should be adopted by the board which will permit the carrying out of these policies in a satisfactory manner.

11. Absence from duty

KRS 160.290 and 161.140 authorize boards of education to make regulations and prescribe the duties to be performed by their employees. Under this authority boards of education should make a regulation concerning absence from duty. Some boards of education have regulations which read somewhat as follows: Any teacher who is unavoidably absent from duty shall report the cause or need for her absence as soon as possible to the superintendent. Whenever possible she should receive permission for being absent before the absence occurs. Such a report will enable the superintendent to arrange for a substitute teacher during the absence of the regular teacher.

The statements of policy and regulations for 7, 8, 9, 10 and 11 above should be very definite and written. Superintendents should prepare or have prepared these statements for submitting to the board for its adoption and approval.

12. Jury service

The law which once exempted school employees from jury service was repealed and became effective March 9, 1954.

13. Teachers to enforce course of study

KRS 161.170 provides that each teacher in the public schools shall enforce the course of study, the use of legally authorized textbooks, and the rules and regulations prescribed for the schools. If any teacher willfully refuses or neglects to comply with the law or such rules and regulations the board of education, upon recommendation of the superintendent, may remove him at any time. When so removed the teacher shall receive payment only for the time taught.

14. Removal of teachers by the Department of Education

KRS 156.110(3) provides that the Superintendent of Public Instruction shall recommend by written charges to the proper school authorities the removal of any superintendent of schools, principal, teacher or other public school officer who in his opinion is guilty of immorality, misconduct in office, incompetency or willful neglect of duty.

15. Teachers responsible for pupil conduct

KRS 161.180 provides each teacher in the public schools shall hold pupils to strict account for their conduct in school, on the way to and from school, on the playground, and during intermission or recess.

16. Records and reports to be made by teachers

KRS 161.200 and 161.210 provide that teachers in the public schools shall keep approved records and make such reports and inventories to the district superintendent in the time and in the manner prescribed by the district board of education and the State Department of Education.

The records that the teachers keep shall show the program of recitations, classification, attendance and grading of all pupils who attended school at any time during the school year, and such other facts as are required.

17. Teachers' retirement

KRS 161.230 establishes a Teachers' Retirement System for Kentucky as of July 1, 1940. The purpose of this system is to provide retirement allowances and other benefits for teachers, under the provisions of KRS 161.220 to 161.710. It has the

powers and privileges of a corporation. Its corporate name is "Teachers' Retirement System of the State of Kentucky." Its business is transacted, its funds invested, and its cash and securities are held in that name.

The general administration and management of the Retirement System and the responsibility for its proper operation according to KRS 161.220 to 161.720 are vested in the board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of Kentucky." The members of the board of trustees shall be the Superintendent of Public Instruction, the Attorney-General, the State Treasurer, and four other members elected as provided in KRS 161.260. Three of the elective members shall be members of the Retirement System, to be known as teacher members, and one shall be a person who is not a member of the teaching profession, to be known as the lay member.

F. Regulations Respecting Personnel Other Than Professional

1. Clerk

KRS 160.390 authorizes superintendents of schools to appoint the necessary clerks, whose salaries shall be determined by the board of education.

2. Business director

KRS 160.430 authorizes independent districts in cities of the first or second class to appoint a business manager.

3. Janitors

KRS 160.290 and 160.380 authorize the board to employ janitors and prescribe their duties. The board of education should adopt policies and regulations governing their employment and duties. A policy in this connection might state that it is the definite policy of the board that the janitors be immediately responsible to the principal of the school for the performance of the duties within the particular building or buildings under the control of the principal and that they be responsible to the superintendent as employees of the board of education. They should adopt rules and regulations concerning administrative procedures and performance of their duties in keeping the buildings and appurtenances thereto and the

grounds in proper condition during the period of their employment. These regulations should include that they should be responsible for running errands for the particular principal and assist the teachers in doing small manual labor in the classrooms and to do all they can to promote the comfort and health of the pupils and to perform such other duties as may be required of them by the principal and superintendent.

4. Other public school employees

KRS 160.290 and 160.380 provide for the employment, promotion and transfer of other employees, as deemed necessary and proper and they also authorize boards of education to prescribe the duties and fix the compensation of employment for these employees.

In the employment of such personnel, the board of education should keep in mind the principle that the schools are run for the children and not in order that individuals may have jobs. They should adopt written policies and follow their regulations concerning these in order to attract those who are capable and efficient.

Copies of the State Board of Education Rules and Regulations as they affect other school personnel may be had from the Department of Education by writing to the Superintendent of Public Instruction or to the Director of the Division of Pupil Transportation.

5. Duties of school employees to be prescribed by boards of education

KRS 161.140 requires boards of education to prescribe the duties for all public school personnel. A good procedure for satisfying this requirement of the law would be for the board of education to adopt policies and approve rules and regulations on the recommendation of the superintendent of the district. Since the superintendent of the district is the executive officer of the board and since he must daily direct the work of all the school personnel, he should be asked to recommend policies and regulations which will aid in getting the work done in an orderly and efficient manner. If the individuals affected have written policies and regulations to which they may refer, it will help materially in arriving at the proper solution of any problem concerned with carrying out

the purposes of the particular school and to the ultimate satisfaction of the personnel involved.

G. Regulations Respecting Pupil Personnel

1. School census and attendance

KRS 159.080 provides that each board of education shall, upon the nomination and recommendation of the superintendent, appoint a director of pupil personnel and such assistants as are deemed necessary. Salaries of directors and assistants shall be fixed by the board.

KRS 159.250 provides that the attendance officer of each district, working under the direction of the superintendent of schools, shall institute and maintain a complete, accurate, permanent and continuous school census of all children between the ages of six and eighteen years who reside in the school district.

KRS 159.080 requires that the State Board of Education shall provide the forms to be used in the permanent and continuing school census and may make rules and regulations for the operation of the school census. Such forms have been prepared and all schools are required to use them. For detailed information on laws governing compulsory attendance and continuing census, one should consult KRS 159.010 to 159.990, inclusive.

A Department bulletin entitled "The Pupil Personnel Worker in the Kentucky Program of Education" should be in the hands of those who administer the program of pupil personnel. This publication will answer many of the questions that arise in carrying out the requirements of the laws cited above. This bulletin also gives many good suggestions concerning responsibilities of those who deal with pupil personnel.

2. Duties of directors of pupil personnel

KRS 159.140 lists the duties of the directors of pupil personnel for school districts.

Board of Education of London Independent School District v. Miller, 299 SW (2d) 626. In this case the Court said the Statutes require that an attendance officer devote full time to the duties of his office. Clerical duties had little or no relation to the duties of attendance officer. An employee could not occupy dual position of part-time clerk and attendance officer. (It should be noted that this court decision was rendered at the time when the law designated as attendance officer what is now found in the law as director of pupil personnel)

3. **Entrance to school; eligibility; promotion; classification and curriculum**

- a. **Admission.** KRS 158.030 provides that no school shall be deemed a common school or receive support from public taxation, unless the school is taught by qualified teachers for a term of eight or more months during the school year and every child residing in the district who is six years of age or over has had the privilege of attending it. KRS 158.070 requires a minimum school term of nine months.

This section further provides that any child who is six years of age or who may become six years of age by December 30 may enter school at the beginning of the session provided that he enters within 30 calendar days of the beginning of the school year with the exception of a school having mid-year promotions in which case the child of six years of age or who may become six years of age within 30 calendar days after the opening of the second semester may enter school at the beginning of the semester.

- b. **Admission to high schools; promotion; classification and accreditation.** KRS 158.140 and State Board of Education rules and regulations make provision for determining the eligibility of pupils to enter high school.

- c. **State Board of Education Regulations.** KRS 156.160(2)(3)(6)(8) provide State Board of Education Regulations as follows:

- (2) Rules and regulations for minimum course of study for the different grades and kinds of schools and the educational equipment required for the pupils.
- (3) Rules and regulations for grading, classifying and accrediting common schools, etc.
- (6) Rules and regulations for governing inspection of physical education and recreation, etc.
- (8) Rules and regulations approving private, parochial and commercial schools.

Details of the application of these rules and regulations and cases involving the regulations herein contained may be found in the manual of the Department entitled "Accrediting Standards and Course of Study for Kentucky Elementary and Secondary Schools."

4. Suspension and expulsion of pupils

KRS 158.150 provides that pupils admitted to the common schools shall comply with the lawful rules and regulations governing the schools. It further provides for expulsion of all pupils who do not comply with the laws and rules and regulations of the board of education.

Board of Education v. Booth, 110 Ky. 807; 62 SW 872. In this case the Court of Appeals held that pupils may be expelled for the violation of rules of school and court will not interfere with or control action of the trustee unless it was arbitrary or malicious.

Byrd et al. v. Begley, 262 Ky. 422. The Court held that the action of the superintendent in suspending the pupil for willful disobedience is proper exercise of authority.

5. Pupil conduct

KRS 161.180 provides that each teacher in the public schools shall hold pupils to a strict account of their conduct in school, on the way to and from school, on the playgrounds and during intermission or recess.

City Board of Education v. Dudley, et al., 154 Ky. 426. In this case the Court defined the teacher's rights and liabilities in the conduct of the schools.

6. Abuse of teacher

KRS 161.190 provides that no person may upbraid, insult or abuse any teacher of the public schools in the presence of the school or in the presence of a pupil of the school.

7. Penalty

KRS 161.990 provides that any person who violates any of the provisions of KRS 161.190 shall be fined not less than \$10 nor more than \$100.

8. Compulsory attendance

KRS 159.010 provides, except as provided in KRS 159.030, each parent, guardian, or other person residing in the state having custody or charge of any child between the ages of seven and sixteen years shall send the child to a regular public day school for the full term of the public schools of the district in which the child resides.

9. Exemptions from compulsory attendance

- a. KRS 159.030 provides the board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular day school every child of compulsory school age:
- (1) Who is a graduate from an accerdedited or an approved four-year high school; or
 - (2) Who is enrolled and in regular attendance in a private or parochial regular day school approved by the State Board of Education; or
 - (3) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or
 - (4) Who is deaf or blind to an extent that renders him incapable of receiving instruction in the regular elementary or secondary schools, but whose mental condition permits application to study.
- b. Before granting an exemption under paragraph (3) of subsection (a) of this section the board of education shall require satisfactory evidence, in the form of a signed statement of a licensed physician or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exclude any such child from school.

10. Employment of children

KRS 339.210 through 339.990 which may be found in the General Provisions of Kentucky Common School Laws provide for employment of children under certain conditions. This law provides for the issuance of employment certificates. KRS 339.280 and 339.300 state who shall issue the certificates and provide regulations for the issuance, revocation and cancellation of such certificates. These forms will be furnished by the Department of Education.

- a. **General Employment Certificates (Form H-1).** This certificate authorizes full-time regular employment of any minors sixteen and seventeen years of age who have left

school. They are also to be used for employment outside of school hours and/or vacation employment of sixteen and seventeen year old minors. These certificates will be used for minors under sixteen only if such minors have completed high school and are to be employed for full-time work.

- b. **Vacation Employment Certificates (Form H-2).** These certificates are to be used for minors fourteen and fifteen years of age who are to be employed outside of school hours during vacation.
- c. **Special Employment Certificates (Form H-3).** These certificates may be used for minors fourteen and fifteen years of age who have been adjudged (under special regulations prescribed by the Superintendent of Public Instruction and the Commission of Industrial Relations) incapable of profiting from further instruction available. When issued they authorize employment during school hours as well as outside of school hours.
- d. **Age Certificates.** These certificates are to be used for minors eighteen to twenty-one years of age upon request.
- e. **Exemption from all provisions of the Child Labor Law.** Farm work and domestic work performed under the direction or authority of minor's parents or guardian.

11. Use of machinery in schools

KRS 339.430 authorizes boards of education to use suitable machinery for instruction in school where mechanical arts are taught. This machinery may be used in connection with and as a part of the usual school curriculum. This machinery must have certain guards and be used in accordance with standards of safety and general interest.

12. Child care centers; preschool

KRS 158.300 through 158.990 provide for the establishment of preschool child centers through permits issued by the Superintendent of Public Instruction.

KRS 158.310 provides that no person, firm, corporation, association or organization shall conduct, operate, maintain

or establish a center unless a permit therefor has been issued by the Superintendent of Public Instruction, and such permits shall not be transferable.

KRS 158.330 authorizes the State Board of Education to promulgate reasonable rules and regulations, not inconsistent with the laws, to properly administer the provisions of KRS 158.300 to 158.350. Such regulations have been approved and may be found in Chapter 50 of the **State Board of Education Regulations**.

13. Deaf children

KRS 167.090 provides, except as provided in KRS 167.100 and 167.120, every person residing in the state who has custody, control, care or supervision of any deaf children between the ages of seven and sixteen years shall cause the child to attend such public, private or parochial school for the hearing or in which deaf children are taught for the full term of each year.

KRS 167.130 and 167.080 provide for a school for the deaf as required by KRS 167.090. Said school is known as the Kentucky School for the Deaf and is located in Danville. Any communication concerning the operation of this school or the attendance of any children for the school should be addressed to the superintendent of the school at Danville.

14. Blind children

KRS 167.140 provides a school for the blind which shall be under the management and control of the State Board of Education. This school is known as the Kentucky School for the Blind and is located in Louisville. Any communication concerning the school should be addressed to the superintendent thereof or to the Superintendent of Public Instruction, State Department of Education, Frankfort.

15. Educational facilities for the physically and mentally handicapped.

KRS 157.200 to 157.300 provide for special educational facilities for the physically and mentally handicapped. The State Department of Education is designated as the agency for cooperation with the state and federal government for

approval of treatment centers and local schools operated by authority of the act. Supervision of special education programs is under the direction of the Division of Special Education for Handicapped Children. This is located in the State Department of Education.

H. Regulations Regarding Transportation of School Children

1. Who shall be transported

KRS 158.110 provides that boards of education shall furnish transportation from its general funds or otherwise for pupils of elementary grade who do not reside within reasonable walking distance of the school provided for them and any board of education may provide transportation from its general funds or otherwise for any pupils of any grade who do not live within a reasonable walking distance of the school provided for them.

Boards of education should adopt such rules and regulations as will insure the comfort, health and safety of the children who are transported, in accordance with the rules and regulations of the State Board of Education.

2. Rules and regulations for transporting school children

KRS 156.160(7) and KRS 189.540 provide that the State Board of Education shall adopt and enforce regulations governing the design and operation of school buses used for the transportation of school children and that these regulations shall apply to the officials of the district, their employees and every person employed under contract in the district. Paragraph (2) of section 189.540 provides that any officer or employee of any school district who violates any of the regulations shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with the school district who fails to comply with any of the regulations shall be guilty of breach of contract and his contract shall be canceled after notice and hearing by the responsible officers of such school district.

3. School bus transportation by county out of general funds

KRS 158.115 provides that each county may furnish transportation from its general funds, and not out of any funds of present taxes raised or levied for educational purposes or ap-

appropriated in aid of the common schools, to supplement the present school bus transportation system for the aid and benefit of pupils of elementary grade attending schools in compliance with the compulsory school attendance laws of the Commonwealth of Kentucky and who do not reside within reasonable walking distance of the school they attend. Any county may provide transportation from its general funds for aid of any pupils of any grade, etc.

Rawlings v. Buler, 290 SW (2d) 801. A school board cannot use public school tax money to aid in transportation of children attending parochial or private schools, but the fiscal courts may bear expense of transporting children attending parochial or private schools. In computing amounts to be contributed by the fiscal court towards the transportation of parochial school children, the "per capita" method must be used instead of determining costs on the basis of the initial cost attributable to transportation of parochial students.

Board of Education of Jefferson County v. Jefferson County, 333 SW (2d) 746. It is the duty of the Court, in decreeing formula to be used in determining costs to county boards of education of transporting pupils of elementary grades attending nonpublic schools, to choose a formula that best assures that none of the expense of transporting nonpublic school pupils will come from the school funds.

Cost to county board of education for transporting pupils attending nonpublic schools should be determined on a standard "per capita" basis in the absence of any clear and unequivocal showing that such formula did not accurately or fairly reflect the costs and that some other formula would.

4. Pupils transported to other districts

KRS 158.130 provides that boards of education may enter into tuition contracts with public school authorities of other districts for furnishing adequate school facilities and the district of the residence may include transportation as part of the public expense for furnishing school facilities. The policy of the board in this connection might read as follows: It shall be the aim of the board to put each child within reach of the best possible educational program that it is able to supply for him. Transportation will be furnished to children in accordance with law and the rules and regulations of the State Board of Education.

It shall be the policy of the board to adopt such rules and regulations as will insure the comfort, health and safety of the children who are transported.

After adopting such policies, boards of education should approve rules and regulations for carrying out these policies.

5. **Other laws governing school transportation**

- a. **School bus license.** KRS 186.050 provides any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for \$4.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the bed of the truck or bus and on the rear door or part of the bed the words "School Bus" in letters at least six inches high and of a conspicuous color and that the truck or bus will be used during the next twelve months only for the purpose stated.
- b. **Age for school bus drivers.** KRS 186.600 provides that no person under the age of eighteen shall drive a motor vehicle while it is in use as a school bus for the transportation of pupils to or from school or a church bus for the transportation of children to or from church, or drive a motor vehicle while it is in use as a public passenger-carrying vehicle.

State Board of Education Regulation 24.250 requires training for school bus drivers as follows: Each driver shall show training in first aid by presenting a certificate from the American National Red Cross.

Before any person who is eighteen and under twenty-one years of age shall enter upon the duties of a school bus driver that person shall be selected in accordance with rules and regulations for the selection of drivers which have been prescribed by the Superintendent of Public Instruction and shall have completed a course of study for school bus drivers which shall have been approved by the Superintendent of Public Instruction.

- c. **Rear, side and clearance lights.** KRS 189.050 provides (1) All vehicles shall display at the rear one red light visible when lighted for at least five hundred feet. A red reflector meeting requirements may be used in lieu of a red light. (2) Every motor bus used for the transportation of persons for hire shall be equipped with at least one red light in the

rear with the word "stop" on it which can be seen for one hundred and fifty feet when illuminated.

- d. **Stopping procedure.** KRS 189.370 provides (1) Whenever any school bus or church bus used in the transportation of children is stopped upon a highway for the purpose of receiving or discharging passengers, the operator of the vehicle approaching from any direction shall bring his vehicle to a complete stop and shall not start up or attempt to pass until the bus has completed receiving or discharging passengers and has been put into motion.

(2) This requirement, as the one above, shall be applicable only in the event the bus bears on the front and rear a plainly visible sign containing the words "School Bus" or "Church Bus," whichever is appropriate, in letters not less than six inches in height, which can be covered when the vehicle is not in use as a school or church bus.

- e. **Signals.** KRS 189.380 which may be found in General Provisions of the **Kentucky Common School Laws** gives details for signals when operating a school or church bus.

- f. **School and church buses to stop at railroad crossings.** KRS 189.550 provides that all school and church buses shall stop before crossing over any steam or electric interurban railroad tracks at a grade. The stop shall be made at not less than ten feet nor more than thirty feet from the nearest railroad over which the highway crosses, except where the crossing is protected by gates or a flagman employed by the railroad. After making the stop, the operator shall carefully look in each direction for approaching cars or trains and shall not start his vehicle until it is ascertained that no cars or trains are approaching in either direction.

- g. **School buses exempted from motor transportation laws.** KRS 281.605 states (1) The provisions of this chapter shall not apply, except as to safety regulations, to:

(a) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities.

Note: You will note that school bus owners and operators are not required to pay fees for licenses required by this law because of this exemption.

- h. **School district to pay tolls.** KRS 280.320(2) provides that the school board of the district which furnishes school service for the children shall pay the proper toll charges over privately-owned toll bridges or toll ferries for children going to or returning from school, and for school buses and other vehicles used exclusively in the transportation of school children to and from school.

6. School bus drivers

- a. **As other employees.** KRS 160.380 authorizes the employment of school bus drivers as "other public school employees."

Reed, et al. v. Green, et al., 243 SW (2d) 892. In this case the Court of Appeals said that bus drivers "are public school employees" within the meaning of the phrase "other public school employees" as stated in KRS 160.380.

- b. **Qualifications.** State Board of Education Regulations set minimum qualifications concerning the experience, physical fitness, appearance, character and habits, general knowledge and mechanical ability for school bus drivers. These regulations require training in first aid for all drivers. They also require special training for persons who are eighteen to twenty-one years of age who desire to become school bus drivers.

All boards of education who have not done so should adopt definite policies and regulations to be followed by all parties involved in the transporting of school pupils. Much help in preparing such policies may be secured from publications on transportation from the State Department of Education and personal service from the Division of Pupil Transportation.

7. Standards for school buses

- a. **Minimum standards.** KRS 189.540 and 156.160 authorize and require the State Board of Education to prescribe minimum standards for school bus chassis and school bus bodies. Such standards have been prescribed. All buses purchased for use in Kentucky by individual operators or to be operated by boards of education must meet these minimum standards before money can be expended for

such buses or before they can be put into operation in transporting in Kentucky.

- b. **File standards.** Manufacturers as well as dealers are required to file specifications of school bus chassis and school bus bodies which they offer for sale in the state before they may legally be purchased by operators or boards of education.
- c. **Local board authority.** Boards of education may prescribe standards in addition to the minimum standards required by the State Board of Education.

8. Regulations for operation and maintenance of school buses

- a. **Operation and maintenance.** KRS 156.160 requires the Superintendent of Public Instruction to adopt regulations governing the operation and maintenance of school buses.
- b. **Cooperation of the State Board of Education and the State Highway Patrol.** KRS 189.540 requires the cooperation of the State Board of Education and the State Highway Patrol in adopting and enforcing regulations governing the design and operation of school buses. Such regulations have been adopted as required by these sections.
- c. **Forms.** KRS 156.160(11) requires the Superintendent of Public Instruction to prepare a uniform series of forms and blanks, educational and financial, including forms of contract, for use in the several school districts. Forms for the use of the district have been prepared and copies may be secured from the Division of Pupil Transportation, State Department of Education, Frankfort.
- d. **Penalty for violation.** KRS 189.540 provides that any officer or employee of a school district who violates any of these regulations or standards provided for in 7 and 8 above shall be guilty of misconduct and subject to removal from office or employment.
- e. **Local boards.** Boards of education have authority to make requirements in addition to the minimum regulations prescribed by the State Board of Education.

9. School bus insurance

KRS 160.310 provides that boards of education may purchase indemnity and liability insurance against the negligence

of drivers and operators of school buses as well as other motor vehicles and mobile equipment operated for the board. Contractors for school bus operation should be required to carry insurance in amounts to be designated by the board.

The State Board of Education has prescribed rules and regulations for the purchase of fleet insurance and has prescribed a standard school bus endorsement which must be attached to all school bus policies.

Forms and information concerning purchase by bid of this insurance may be had from the Superintendent of Public Instruction or the Division of Pupil Transportation, State Department of Education.

10. Management of transportation

School children who ride buses are no safer than the driver of the school bus in which they ride. For this reason, superintendents and boards of education should make regulations which will specify duties of drivers with reference to:

- a. Maintenance of schedules
- b. Rate of speed at which bus may be operated
- c. Responsibility and authority in regard to the pupils
- d. Care of the vehicles
- e. Conduct of the driver while on duty
- f. Some policies that boards of education should adopt in this connection might read somewhat as follows:

It shall be the policy of the board of education that principals of the various schools shall be responsible for the working out of bus schedules in such a way as to allow the most convenience to the greatest number of children. They shall insist that the schedule be maintained as nearly as possible at all times. School bus drivers shall be responsible directly to the principal of the school which they serve.

Drivers shall meet such physical tests as will qualify them to drive under the laws and rules and regulations of the State Board of Education and the additional requirements prescribed by this board.

Bus drivers and operators shall report to the superintendent of the district monthly the condition of their buses as is revealed by careful inspection by a competent mechanic.

If one or more of these or other policies are adopted by the board, rules and regulations for carrying out each policy should be prepared by the superintendent and the principals involved, and recommended for adoption by the board.

I. Regulations Governing Management of School Property

1. Authority of boards of education concerning management and control of school property

a. **Board of education.** KRS 160.160 provides that each school district shall be under the management and control of a board of education. This board may purchase, receive, own or sell property; issue its bonds to build and construct improvements, sue and be sued; make contracts; and do all things necessary to accomplish the purposes for which it is created.

b. **State Board of Education regulation.** Regulation 22.010(c) provides that, "A site (school) recommended by the local board of education shall be approved by the Division of Buildings and Grounds before the planning of any project is undertaken.

Regulation 22.360(4) states, "No part of an existing school lot on which a school building has been constructed and is in current use shall be sold until approval of such sale has been made by the Superintendent of Public Instruction.

c. **Title to property.** KRS 162.010 provides that the title to all school property owned by the school district shall be vested in the Commonwealth for the benefit of the district board of education. Boards of education, however, have authority to give good title to any property which it holds.

Bellamy v. Board of Education of Ohio County et al. The Court held, although the title to school property is technically vested in the Commonwealth by KRS 162.010, the broad powers to control, buy and sell, is specifically given to boards of education by KRS 160.160. This authority taken with that of KRS 162.300 evidences a clear intention of the Legislature to make boards of education agencies of the state in the purchase, control and sale of school property.

- d. **Fee simple title.** KRS 162.010 provides that in the acquisition of land for school purposes, whether by purchase or condemnation or otherwise, the title obtained shall be in fee simple.

Elkhorn Coal Corporation v. Johnson, 249 SW (2d) 745. In this case the Court said, "The obligations and liabilities of the mineral owner are to be determined by the rights *granted in the covenant* of the conveyance and those *reserved by the grantor*. In the finality, the liability of the mineral owner and the right to damages rest upon the right of the surface owner to surface support. The owner of the surface has the right to surface support unless *excepted from the grant*."

"This right and the liability of the mineral owner for the damages may be waived either by express or implied covenant."

Because the individual or the organization purchasing mineral rights may have secured from the owner a waiver of damages, either expressed or implied, the superintendent of the district should secure for the board a copy of the covenant of the sale of mineral rights concerning the particular plot under consideration and determined by competent legal advice that the original grantor did not waive the right to secure damages by the covenant which he made with the purchaser of the mineral rights.

Such a waiver many times has been granted. In such case, the individual or organization owning the plot should be contacted to secure release on the mineral rights of the plot being considered for school purposes.

- e. **Authority to condemn property.** KRS 162.030 provides that boards of education may institute condemnation proceedings for the purchase of real estate when they are unable to contract with the owner for the purchase of the same. Many times boards of education hesitate to exercise this authority. Such a hesitancy may result in the location of buildings on plots which are very expensive to put in usable condition or the location of buildings in much less desirable surroundings.

Boards of education should exercise this authority. By so doing they may be able to place buildings in more desirable locations from the standpoint of the health of the children as well as from the standpoint of developing the best of the innate qualities of the children. It should be

kept in mind that these buildings will be used for a long period of time and by many people.

- f. **Escheated property.** KRS 162.040 provides that certain property which escheats to the state shall be vested in the state for the use and benefit of the public schools of the district.
- g. **Injuring or intruding on property.** KRS 273.060 guarantees boards of education authority to proceed against any person injuring or intruding on the property under their jurisdiction.
- h. **Willfully damaging, stealing from or trespassing on public building.** KRS 433.180, 433.480 and 433.490 provide punishment for any person who shall feloniously take out of, or from, a school house any goods or chattels, or other thing of value belonging thereto, and for any person who willfully and unlawfully damages the schoolhouse or who shall trespass or injure any school property.

2. Contracts for buildings, improvements and materials to be let on competitive bidding; advertisements for

- a. **Authority.** KRS 162.070 and KRS 424.110, 424.120, 424.130, 424.140, 424.150 and 424.260 authorize boards of education to erect new buildings, repair old buildings and buy equipment for the operation of schools.
- b. **Qualifications of newspaper for advertisement.** KRS 424.120 defines these qualifications.
- c. **Times and periods of publication.** KRS 424.130 outlines the number of times the publication must appear.
- d. **Content of the advertisement.** KRS 424.140 outlines the content of certain specific advertisements.
- e. **Person responsible for publishing.** KRS 424.150 designates person responsible for making the publication.
- f. **Bids for materials, supplies, equipment and services.** KRS 424.260 states except where a statute specifically fixes a larger sum as the minimum for a requirement for advertisement of bids, no city, county or district, or board of commission of a city or county, may make a contract for

materials, supplies or equipment, or for contractual services other than professional, involving an expenditure of more than \$1,000 without first making a newspaper advertisement for bids provided, however, that the requirement shall not apply in an emergency if the chief executive officer of such city, county or district has duly certified that an emergency exists, and has filed a copy of such certificate with the chief financial officer of such city, county, or district.

3. Acquiring and erection of buildings

- a. **Policy for acquiring of new and disposing of old property.** New property shall be acquired and old property disposed of only as a part of a well-planned school program based on data secured by the superintendent of schools which shows the plant needs for the school system.
- b. **Regulations.** KRS 156.160(5) provides that the Superintendent of Public Instruction shall prepare or cause to be prepared and submit for approval and adoption by the State Board of Education: "Regulations for the sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings and classrooms." Regulations for minimum requirements for school house construction have been prepared and copies of these may be secured from the Department of Education by any person interested in the construction or the repair of old buildings.

4. New buildings; additions to old buildings; major repairs

- a. **Rental contracts.** KRS 162.120 to and including 162.300 provide a means for securing buildings on a rental contract basis. This is sometimes known as "holding corporation basis." Most of the building construction in the state at the present time is done on this basis and involves a procedure whereby the fiscal court or the city council issues the bonds for the construction of the building. These organizations in turn rent the buildings which are constructed by this plan to the board of education on an annual rental basis for a stipulated number of years. The annual rental is such an amount as will pay the total cost of con-

struction and expense involved in carrying out the plan within the stipulated period.

- b. **Kentucky Public School Authority.** KRS 162.510 through 162.620 create a school building authority. It may issue bonds for the construction of school buildings. This agency is an instrumentality of the Commonwealth for the purpose of assisting boards of education of any county or independent school district, by request, for financing public school building projects and undertakings. This authority has perpetual succession and the power to contract and to contract with, sue and be sued in its corporate name and exercise the usual powers of private corporations as expressly limited by sections of law.
- c. **Invitation to bid on municipal bonds.** KRS 424.360 provides that no sale of general obligation or revenue bonds of any governmental unit or political subdivision, or agency thereof, shall be made except upon newspaper advertisement for bids, published for the publication area constituted by the political subdivision or governmental unit and published to advertise state wide. If the bonds are in the principal amount of \$50,000 or more, an advertisement for bids shall also be published in a publication that has general circulation among bond buyers.

5. **Plans for school buildings to be approved**

KRS 162.060 provides that the Superintendent of Public Instruction shall be furnished a copy of all plans and specifications for new public school buildings contemplated by boards of education and all additions, all alterations on old buildings.

6. **Competitive bidding**

KRS 162.070 and KRS 424.260 provide for competitive bidding for contract of erection of new school buildings and additions and repairs to old buildings.

7. **Public works; wage scale**

KRS 337.510 provides, "Before advertising for bids or entering into any contract for construction of public works, every public authority shall ascertain the prevailing rates of

wages of laborers, workmen, mechanics, helpers, assistants and apprentices for the class of work called for in the construction of such public works in the locality where the work is to be performed. This schedule of wages shall be attached to and made a part of the specifications for the work and shall be printed on the bidding blanks and made a part of every contract for the construction of public works.

8. Public work under unlicensed engineer prohibited

KRS 322.360 provides, "(1) Neither the state nor any of its political subdivisions shall engage in the construction of any public work involving engineering, unless the plans, specifications and estimates have been prepared and the construction executed under the direct supervision of a licensed engineer or a licensed architect.

(2) Subsection (1) of this section shall not apply to any public work in which contemplated expenditure for the completed project does not exceed two thousand dollars or to the maintenance or repair of any existing state or county highway.

9. Use of school property

a. **Use and operation of properties in carrying out the school program.** KRS 160.290 gives boards of education full authority, and therefore the responsibility to control and manage the school property of its district in such ways as it deems necessary and proper. This section also authorizes boards of education to make such rules, regulations and bylaws for putting into effective operation any policies which seem advisable and necessary for the effective and economical use of school property. This use of school property can be best achieved by careful planning as it affects the use and operation of school plants and school plant facilities. An efficient operational program will usually reduce maintenance costs.

It is generally agreed that boards of education can best discharge their obligations in school administration by adopting definite written policies and by developing regulations which assign responsibilities for carrying out these

policies. Each board should at least adopt school plant policies governing the following areas:

- (1) The responsibility for maintenance and operational program of the school plants and facilities
- (2) The control and management of school plant service personnel
- (3) The proper use, care and operation of the school plant and installations
- (4) Any non-school use of school plant facilities and personnel

- b. **Non-school use of property.** KRS 162.050 provides, "The board of education of any school district may permit the use of school house while school is not in session, by any lawful public assembly of educational, religious, agricultural, political, civic or social bodies under rules and regulations which the board deems proper.

In protecting the interest of the taxpayers and preserving the property for school use boards of education should adopt policies and regulations requiring organizations which they permit to use the property to be responsible for its proper care and to return it to the board of education in the same condition as when it received it, ordinary wear and expenses for use to be determined by the regulations of the board. It may be wise for a board to adopt a policy requiring that the users buy insurance coverage made payable to the board. These policies and regulations should be prescribed by the board for all conditions which the law does not cover.

It is recommended that the school administrative officer of each district should use as a basis for planning school plant uses a manual issued by the State Department of Education entitled "School Plant Operations." Copies of this manual are available upon request. This manual gives a very good example of a policy that may be adopted by boards of education for non-school use of school plants.

This policy reads in part as follows:

The _____ Board of Education assumes that

school plant properties are purchased, maintained and operated by public school funds exclusively for the educational program. Since the board of education is charged with the responsibility for the use and care of school properties, it is decreed that any use of these properties other than the normal and usual school program shall be permitted only upon approval by the board after proper application has been filed with the superintendent of the district.

If the board of education desires to make a usage charge, the following might be made part of the policy:

“A uniform charge shall be made for any non-school use of school properties. The charge shall be determined by the following formula and payable to the board immediately upon use of any properties. The user shall, in addition to the use charge, be liable for any loss or damage caused by or resulting from such use.”

c. **Use Charge Formula**

$\text{CHARGE} = \text{Custodial Factor} + \text{Maintenance Factor} + \text{Utility Factor}$

- (1) **Custodial Factor**—The time required to prepare for the activity plus the time consumed by the activity plus the time required to clean and rearrange the area after the activity. Only regularly employed school custodians may perform this service and shall be paid extra for this service at a uniform established rate.
- (2) **Maintenance Factor**—Maintenance is estimated as 2% of the replacement cost of the area plus 10% of the replacement cost of the furnishings and equipment for the time involved by the non-school activity.
- (3) **Utility Factor**—The total cost of heat, water, lights, etc., for the time involved by the non-school activity.

The manual gives an example and a method of calculating cost for school buildings based on the above listed factors. There are many other suggestions contained in the manual that will be very helpful to boards of education in dealing with problems of maintenance and operation of school plants as well as the non-school use of these facilities.

J. Miscellaneous Rules and Regulations

1. Redress of grievances

KRS 160.290 and 161.140 authorize boards of education to set policies and approve regulations regarding procedures of patrons and employed personnel for redress of any grievance which they may have concerning the school system of which they are a part. The following is suggested as a policy:

Individuals who are aggrieved because of any action or lack of action in a school or in the administration of the school system shall be entitled to appeal to the board of education. They shall be afforded reasonable notice and an opportunity for a fair hearing by the board.

Any case of grievance shall be heard in accordance with the following listed procedure:

Conference with the teacher or other employee immediately in charge of the cause of the grievance. The order of appeal shall be teacher, head teacher, principal, superintendent, board.

The superintendent should be requested to prepare, for consideration of the board, procedures for hearing any appeals made to the board. Such procedures may determine whether the appeal shall be in writing, whether a committee shall be appointed to hear the evidence, etc.

2. School services which districts are required to provide

- a. **Twelve-grade school service.** KRS 158.100 lists the school services which boards of education are required to provide for all children of public school age.
- b. **Special education classes for handicapped children.** KRS 157.230 provides, "If parents of as many as twelve educable mentally handicapped children living in a school district desire special education classes for their children, school boards of any school district shall establish and maintain such classes, subject to any limitation specified in KRS 157.240 to 157.300."
- c. **Instruction as to nature and effect of alcoholic liquor and narcotics.** KRS 158.270 provides that, "(1) The nature of

alcoholic liquor and of narcotics and their injurious effects on the human system shall be taught in each of the grades, four to ten inclusive, of the common schools. It shall be the duty of the superintendent and principal of every school and the president of every university, college or academy to have presented for a period of 30 minutes to the entire student body in assembly, at least on two occasions each term or semester by an appropriate program, the scientific, social and moral aspects of alcoholic beverages, stimulants and narcotics.

“(2) The failure of any superintendent, principal or teacher to comply with the terms of this section shall be deemed a cause for the revocation of his contract of employment, and upon notice to the Board of Education employing such superintendent, principal or teacher that he has failed to do so it shall be the duty of said board to conduct a hearing and if the charge be proven to dismiss or discharge said superintendent, principal or teacher.

“(3) When textbooks on physiology and hygiene shall be hereafter adopted or approved for the schools, such books shall contain a substantial text, to be approved by the Superintendent of Public Instruction, devoted to the nature of alcoholic liquors and narcotics and their effect upon the human system.

- d. **Instruction in conservation.** KRS 158.280 provides that, “Instruction in all phases of conservation and preservation shall be included in the curriculum of the public schools of Kentucky; and textbooks regarding the proper use and protection of forests, soils, water, minerals and wild life shall be prepared or selected by the State Textbook Commission for the purpose.”
- e. **Bible to be read.** KRS 158.170 provides that, “The teacher in charge shall read or cause to be read a portion of the Bible daily in every classroom or session room of the common schools of the state in the presence of the pupils therein assembled, but no child shall be required to read the Bible against the wish of his parents or guardian.”

3. School services which districts may provide

- a. **Part-time schools.** KRS 339.380 provides, "School districts may organize part-time schools and any child to whom an employment certificate is issued may be required to attend such school."
- b. **Special education for deaf and blind children.** KRS 159.050 provides for the attendance of deaf and blind children at special schools either in the school district or in state institutions for the education of such special groups.
- c. **Kindergartens; night schools.** KRS 158.090 provides that, "The board of education of any school district may establish and maintain kindergartens for children from four to six years of age and, subject to the approval of the Superintendent of Public Instruction, may establish such night schools, industrial schools and other schools for the residents of the district as it deems advisable."
- d. **Moral instruction.** KRS 158.200 provides that, "The boards of education of independent and county school districts may provide for moral instruction of pupils subject to their jurisdiction, in the manner provided in KRS 158.210 to 158.260."

4. Private schools; courses; term

KRS 158.080 provides that, "Private and parochial schools shall be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the state. The term of the school shall not be for a shorter period in each year than the term of the public school provided in the district in which the child attending the school resides."

5. Disease and epidemics

- a. **Policies, rules and regulations of local boards.** KRS 158.160, 212.210 and 212.260 provide legal means for protecting the health of children against disease and epidemics. Boards of education should adopt such policies and make such rules and regulations for putting into effect these laws as in their opinion will give the best protection to the health and general welfare of the children and the community.

These policies, rules and regulations should be in conformity with the policies and rules and regulations of the State Board of Education prescribed by authority of KRS 156.160(6).

- b. **Vaccination.** KRS 214.040 provides for vaccination of all persons of the age of twenty-one years and over who have not been successfully vaccinated for smallpox in stating that they shall procure their own vaccination or revaccination.

KRS 214.050 provides that, "All parents, guardians and other persons having the care, custody or control of any minor, or who have a minor in their employ, shall have the minor vaccinated for smallpox within twelve months after birth or after the minor comes under their care, custody or control."

KRS 214.060 provides that, "All persons coming into this state to abide or become citizens shall, if not previously vaccinated for smallpox, procure the vaccination of themselves and any children under their care or control within six months after coming into the state."

6. Payment equivalent to school tax

- a. **City-owned light, water and gas plants.** KRS 96.536 provides that each board of education of school districts in which is located the property or properties of publicly-owned light, water or gas plants shall be paid each year an amount which shall not exceed the tax which the board would receive from its tax rate for the value of the property owned by such publicly-owned light, water and gas plants.
- b. **Payment of sums by the Tennessee Valley Authority equivalent to taxes.** KRS 96.895 provides for the payment to be made to each county, city and school district as determined by the proportion that the book value of the Tennessee Valley Authority property in such taxing district, multiplied by the current tax rate, bears to the total amount of the book values of the Tennessee Valley Authority property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates.

7. Trespassing

KRS 259.200 provides, "No person shall permit any cattle to run or trespass upon any state or national parks, encampment grounds, scout camps, grounds dedicated to religious, educational or recreational purposes or floodwalls erected at public expense."

K. THE SCHOOL BOARD MEMBER'S CREED

The following may be adopted in whole or in part as a policy of the board:

1. As a Member of the School Board

I will listen.

I will recognize the integrity of my predecessors and associates and the merit of their work.

I will be motivated only by the desire to serve the children of my community.

I will recognize that it is my responsibility together with that of my fellow board members to see that the schools are properly run—not to run them myself.

I will work through the administrative employees of the board—not over or around them.

I will recognize that school business may be legally transacted only in open meeting legally called.

I will not "play politics".

I will attempt to inform myself on the proper duties and functions of a school board member.

2. In Performing the Proper Functions of a School Board Member

I will deal in terms of general educational policies.

I will function, in meeting the legal responsibility that is mine, as a part of a legislative, policy-forming body—not as an administrative officer.

I will consider myself a trustee of public education and will attempt to protect and conserve it.

3. In Maintaining Desirable Relations with Other Members of the Board

I will respect the opinions of others.

I will recognize that authority rests with the board in legal session—not in individual members of the board.

I will make no disparaging remarks in or out of meeting about other members of the board or their opinions.

I will recognize that to promise in advance of a meeting how I will vote on any proposition which is to be considered is to close my mind and agree not to think through other facts and points of view which may be presented in the meeting.

I will make decisions in board meetings only after all sides of the question have been presented.

I will discourage the use of standing committees and insist that all members of the board participate fully in board action—delegating detail matters to administrative employees.

I will insist that special committees be appointed to serve only in an investigating and advisory capacity.

I will consider unethical and will thus avoid “star chamber” or “secret” sessions of the board members held without presence of the school administration.

4. In Meeting My Responsibility to My Community

I will attempt to appraise fairly both the present and the future educational needs of the community.

I will attempt to procure adequate financial support for the schools.

I will interpret to the schools as best I can the needs and attitudes of the community.

I will consider it an important responsibility of the board to interpret the aims and methods of the schools and the materials used in them to the community.

I will insist that business transactions of the school district be on an ethical, open, and above-board basis.
I will not buy for personal use at "school" prices.
I will not consider a position on the school board as a "stepping stone" to political power.

5. In Working with the Superintendent of Schools and His Staff

I will hold the superintendent of schools responsible for the administration of the schools.
I will give the superintendent of schools authority commensurate with his responsibility.
I will expect the schools to be administered by the best trained technical and professional people it is possible to procure.
I will elect employees only on the recommendation of the superintendent.
I will participate in board legislation only after considering the recommendation of the superintendent and only after he has furnished complete information supporting his recommendation.
I will expect the superintendent of schools to keep the board of education adequately informed at all times through both oral and written reports.
I will expect to spend more time in board meetings on educational programs and procedures than on business detail.
I will give the superintendent of schools friendly counsel and advice.
I will refer all complaints to the proper administrative officer or insist that they be presented in writing to the board as a whole.
I will present any personal criticisms of employees to the superintendent.
I will provide adequate safeguards around the superintendent and other personnel so they may perform the proper functions of education on a professional basis.

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