160.346 "Persistently low-achieving school" and "school intervention" defined -- Identification of school council needing improvement -- School district assistance plan -- Audit team to review and report on persistently low-achieving schools -- Transfer of council's powers, duties, and authority to superintendent or commissioner -- Restoration of council's authority -- Intervention options.

(1) For purposes of this section:

(a) "Persistently low-achieving school" means:

1. For school years 2009-2010 and 2010-2011, based on averaging the percentage of proficient or higher in reading and mathematics on the state assessments under KRS 158.6455:

a. A Title I school in the group of Title I schools that contains a minimum of the lowest five (5) or the lowest five percent (5%), whichever is greater, of the Title I schools identified collectively in any school improvement category under the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor, that have failed to make adequate yearly progress for three (3) consecutive years; or

b. A non-Title I school in the group of non-Title I schools that contains a minimum of the lowest five (5) or the lowest five percent (5%), whichever is greater, of the non-Title I schools that contain grades seven (7) through twelve (12), or any combination thereof, and has at least thirty-five percent (35%) or greater poverty as identified in the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor, that have failed to make adequately yearly progress for three (3) consecutive years;

2. A high school whose graduation rate, based on the state's approved graduation rate calculation, has been sixty percent (60%) for three (3) or more consecutive years; or

3. Beginning with the state assessment results for the school year 2011-2012, a school that is in the lowest five percent (5%) of all schools that fail to meet the achievement targets of the state accountability system under KRS 158.6455 for at least three (3) or more consecutive years. For school years 2011-2012 and 2012-2013, the three (3) consecutive years shall be evaluated based on the status of the school under this subparagraph and subparagraph 1. of this paragraph; and

(b) "School intervention" means a process to turn around a persistently low-achieving school that is chosen by a school council, a superintendent and a local board of education, or the commissioner of education, or the commissioner's designee with approval of the Kentucky Board of Education.

(2) (a) A school with a school council identified as needing improvement under KRS 158.6455 shall include in its school improvement plan actions to strengthen

the school council and the school-based decision-making process at the school.

(b) The local school district shall include in its assistance plan for a school identified in paragraph (a) of this subsection actions to strengthen the functioning of the school council and the school-based decision-making process at the school.

(3) (a) An audit team established under KRS 158.6455(4) and (5), auditing a persistently low-achieving school, shall include in the review and report:

1. The functioning of the school and the school council;
2. A determination of the school council and principal's ability to lead the intervention in the persistently low-achieving school;
3. The interaction and relationship between the superintendent, central office personnel, and the council; and
4. A recommendation to the commissioner of education concerning whether the school council should retain the authority granted to it under KRS 160.345, whether the council should be replaced, and whether the current principal should remain as principal in the school. If the recommendation is to transfer the authority of the school council, the team shall also recommend whether:
   a. The authority should be transferred to the superintendent or to the commissioner of education, who shall designate staff to manage the school;
   b. The school council should continue to act in an advisory capacity until all authority has been restored under subsection (8) of this section; and
   c. The members of the school council shall be replaced by the commissioner of education.

(b) An audit team established under KRS 158.6455(4) and (5), auditing a district of a school subject to paragraph (a) of this subsection, shall include in its review and report:

1. The overall functioning of the school district;
2. The interaction and relationship between the superintendent, central office personnel, school board members, and the council; and
3. A determination of the district's ability to manage the intervention in the persistently low-achieving school.

(4) Within thirty (30) days of receiving the reports of the school and district audits, the commissioner shall act on the recommendations in the reports and other relevant data that the commissioner considers to have bearing on his or her determination of actions to be taken.

(5) Within thirty (30) days of the commissioner's action on the audit teams' recommendations, the school council or local board of education may appeal the commissioner's action to the Kentucky Board of Education by submitting a written

request, including any supporting information. The Kentucky Board of Education shall consider the audit reports, the commissioner's decision, and the request for consideration with any supporting information, and make a final determination. If the state board is not scheduled to meet within thirty (30) days following the receipt of an appeal of the commissioner's decision, the board chair shall call a special meeting for action upon the appeal.

(6) If a decision is made to transfer powers, duties, and authority under subsection (4) of this section, the local superintendent, subject to the policies adopted for the district by the local board of education, or the commissioner or the commissioner's designee shall assume all powers, duties, and authority granted to a school council under KRS 160.345 thirty (30) days following the commissioner's action on the audit teams' recommendations if no appeal to the Kentucky Board of Education is submitted or following the final determination of the Kentucky Board of Education on an appeal, whichever is appropriate.

(7) Within thirty (30) days after assuming the powers, duties, and authority under subsection (6) of this section, the superintendent or the commissioner or the commissioner's designee shall consult with the council, if the council has been given an advisory role under subsection (4) of this section, and with stakeholders at the school, including parents, the principal, certified staff, and classified staff, and prepare a plan for developing capacity for sound school-based decision making at the school. The commissioner of education shall review the proposed plan and approve it or identify specific areas for improvement before giving final approval. The superintendent shall report to the commissioner every six (6) months on the implementation and results of the approved plan.

(8) The school's right to establish a council or the school's right for the council to assume the full authority granted under KRS 160.345 shall be restored if the school is not classified as persistently low achieving for two (2) consecutive years.

(9) Each persistently low-achieving school shall engage in one (1) of the following intervention options:

(a) "External management option" which requires that the day-to-day management of the school is transferred to an education management organization that may be a for-profit or nonprofit organization that has been selected by a local board of education from a list of management organizations. The management organization may be approved by the Kentucky Board of Education after a rigorous review process, which shall be developed by the state board by the promulgation of administrative regulations. The management organization's authority shall include the right to make personnel decisions that comply with KRS Chapter 161 and any employee-employer bargained contract that is in effect;

(b) "Restaffing option" which requires the replacement of the principal and the existing school-based decision-making council unless the audit reports under subsection (3) of this section recommended otherwise, screening of existing faculty and staff with the retention of no more than fifty percent (50%) of the faculty and staff at the school, development and implementation of a plan of

action that uses research-based school improvement initiatives designed to turn around student performance. Personnel actions shall comply with KRS Chapter 161 and notwithstanding KRS 160.380(1)(c) relating to filling vacant positions and KRS 160.345(2)(h)1. relating to transfers;

(c) "School closure option" which requires the closure of an existing school and the transfer of its students to other schools within the district that are meeting their accountability measures, reassignment of the school's faculty and staff to available positions within the district, and which may result in nonrenewal of contracts, dismissal, demotion, or a combination of these personnel actions which shall comply with KRS Chapter 161 and notwithstanding KRS 160.380(1)(c) relating to filling vacant positions and KRS 160.345(2)(h)1. relating to transfers;

(d) "Transformation option" means a school intervention option that begins with replacing the school principal who led the school prior to commencement of the transformation option and replacing the school council members unless the audit reports under subsection (3) of this section recommended otherwise and instituting an extensive set of specified strategies designed to turn around the identified school which shall comply with KRS Chapter 161 and notwithstanding KRS 160.380(1)(c) relating to filling vacant positions and KRS 160.345(2)(h)1. relating to transfers; or

(e) Any other model recognized by the federal No Child Left Behind Act of 2001, 20 U.S.C. secs. 6301 et seq., or its successor.

The Kentucky Board of Education shall promulgate administrative regulations to establish the process and procedures for implementing the intervention options identified in paragraphs (a) to (e) of this subsection available to local boards of education and the commissioner of education.

(10) Professionally negotiated contracts by a local board of education shall not take precedence over the requirements of paragraphs (b), (c), and (d) of subsection (9) of this section.

(11) The Department of Education shall provide services and support to assist the schools identified as persistently low-achieving.

(12) If, in the course of a school or district audit, the audit team identifies information suggesting that a violation of KRS 160.345(9)(a) may have occurred, the commissioner of education shall forward the evidence to the Office of Education Accountability for investigation.

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