

**157.420 Restrictions governing expenditure of funds from public school fund -- Use of historic settlement school facilities -- Use of capital outlay funds after mid-year adjustment -- Evaluation of school buildings.**

Public school funds made available to the credit of each district during any year shall be received, held, and expended by the district board, subject to the provisions of law and administrative regulations of the Kentucky Board of Education. The following restrictions shall govern the expenditure of funds from the public school fund:

- (1) The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year.
- (2) Beginning with the 2004-2006 biennium, the Kentucky Board of Education shall not approve any working budget or salary schedule for local boards of education for any school year unless the one hundred eighty-five (185) day salary schedule for certified staff has been adjusted over the previous year's salary schedule by a percentage increase at least equal to the cost-of-living adjustment that is provided state government workers under the biennial budget. The base funding level in the program for support education excellence in Kentucky as defined in KRS 157.320 shall be increased by the statewide dollar value of the annual required cost-of-living percentage adjustment that shall be estimated on the sum of the previous year's statewide teachers' salaries.
- (3) A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS 161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year to be determined according to the number of staff employed by the district on September 15. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.
- (4) (a) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the commissioner of education in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the Kentucky Board of Education. These funds shall be used for the following capital outlay purposes:
  1. For direct payment of construction costs;
  2. For debt service on voted and funding bonds;
  3. For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;
  4. For the retirement of any deficit resulting from overexpenditure for capital construction, if such deficit resulted from an emergency declared

by the Kentucky Board of Education under KRS 160.550; and

5. As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.
  - (b) A district may submit a request to the commissioner of education to use funds from the per pupil capital outlay allotment to purchase land for a new school or to modify an existing school if the project is included on the district facility plan for completion within eight (8) years. The land shall not be included in the calculation of the school district's unmet need. The commissioner may grant or deny the district's request at his or her discretion.
  - (c) A district which has experienced an increase in adjusted average daily attendance, as defined by administrative regulation, of twenty percent (20%) or more over a five (5) year period may submit a request to the commissioner of education to use capital outlay funds for the operation of a new school for the first two (2) years following its opening. The commissioner may grant or deny the district's request at his or her discretion.
  - (d) A local school district may submit a request to the commissioner of education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance without forfeiting the district's participation in the School Facilities Construction Commission program. Maintenance requests may include other priorities that are not considered major renovations, such as repair, renovation, or system upgrades that are necessary to maintain the integrity of an existing school facility.
- (5) The district may contribute capital outlay funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, provided in KRS 45A.353, 56.774, and 58.600, shall be based on the following:
  - (a) The energy conservation measures shall include facility alteration;
  - (b) The energy conservation measures shall be identified in the district's approved facility plan;
  - (c) The current facility systems are consuming excess maintenance and operating costs;
  - (d) The savings generated by the energy conservation measures are guaranteed;
  - (e) The capital outlay funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in KRS 45A.345(2) and shall be subject to the restrictions on usage as specified in KRS 45A.352(9); and
  - (f) The equipment that is replaced shall have exceeded its useful life as determined by a life-cycle cost analysis.
- (6) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the commissioner of education under administrative regulations of the Kentucky Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current

expenses shall not be eligible to participate in the School Facilities Construction Commission funds, except when the current expenditures are approved by the commissioner of education under subsection (4)(b) or (c) of this section.

- (7) If a survey shows that a school district has no capital outlay needs as shown in subsection (4)(a)1., 2., 3., and 4. of this section, upon approval of the commissioner of education, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.
- (8) In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.
  - (a) "Permanent center" means a center which meets the program standards approved by the Kentucky Board of Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.
  - (b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.
  - (c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.
- (9) Beginning in fiscal year 2011-2012, the Kentucky Department of Education shall standardize the process for evaluating the overall quality and condition of all school buildings across the state. The evaluation process shall:
  - (a) Result in consistent categorization of buildings for local planning purposes and for the distribution of state general fund moneys designated for capital construction;
  - (b) Be based on measurable, objective criteria;
  - (c) Include numerical scoring with weights to recognize building components and characteristics that address:
    1. Life safety issues;
    2. Compliance with state and federal codes;
    3. Compliance with requirements under the Americans with Disabilities Act;
    4. Community spaces;

5. Instructional areas;
  6. Mechanical, electrical, plumbing, and other technology systems;
  7. Site and exterior building conditions;
  8. Age of the buildings;
  9. Feasibility of building additions or major renovations;
  10. The districts' facility capacities;
  11. Current use of temporary facilities; and
  12. Projected enrollment growth; and
- (d) Use of a third-party evaluator that utilizes an already established software-based system to perform the first, base-line evaluation.
- (10) The Kentucky Board of Education shall promulgate an administrative regulation upon recommendation of the Kentucky Department of Education and the School Facilities Construction Commission to implement subsection (9) of this section.
- (11) If a local school board authorized elementary, middle, or secondary education classes in a facility of a historical settlement school on January 1, 1994, the board shall continue to use the facilities provided by the settlement school if the facilities meet health and safety standards for education facilities as required by administrative regulations. The local school board and the governing body of the settlement school shall enter into a cooperative agreement that delineates the role, responsibilities, and financial obligations for each party.
- (12) Notwithstanding the provisions of subsections (4) and (6) of this section, a local district that has requested a mid-year adjustment in the support education excellence in Kentucky funding under KRS 157.360(16) may request permission from the commissioner of education to use capital outlay funds for the purchase of school buses or to use the capital outlay funds for increased operational expenses for the first three (3) years following the increased growth in the district without forfeiture of the district's participation in the School Facilities Construction Commission Program. The commissioner may grant or deny the district's request.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 104, sec. 4, effective June 25, 2013. -- Amended 2010 Ky. Acts ch. 134, sec. 3, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 53, sec. 1, effective June 25, 2009; and ch. 74, sec. 2, effective June 25, 2009. -- Amended 2002 Ky. Acts ch. 135, sec. 1, effective July 1, 2004. -- Amended 1998 Ky. Acts ch. 254, sec. 1, effective July 15, 1998; and ch. 375, sec. 9, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 87, sec. 2, effective July 15, 1996; and ch. 362, sec. 6, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 435, sec. 3, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 183, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. ch. 476, Pt. III, sec. 106, effective July 13, 1990; and ch. 518, sec. 5, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 292, sec. 1, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 188, sec. 1, effective July 13, 1984. -- Amended 1978 Ky. Acts ch. 133, sec. 5, effective June 17, 1978. -- Created 1976 Ky. Acts ch. 93, sec. 31, effective July 1, 1976.

**History for former KRS 157.420.** Repealed 1974 Ky. Acts ch. 363, sec. 18, effective June 30, 1976. -- Amended 1972 Ky. Acts ch. 279, sec. 2, effective June 19, 1972. -- Amended 1970 Ky. Acts ch. 116, sec. 2, effective June 18, 1970 -- Amended 1966

Ky. Acts ch. 24, Part 1, sec. 9. -- Amended 1960 Ky. Acts ch. 145, sec. 8. -- Amended 1956 Ky. Acts ch. 106, sec. 6. -- Created 1954 Ky. Acts ch. 214, sec. 12.

**2016-2018 Budget Reference.** See 2017 Ky. Acts ch. 152, sec. 3 at 1110.

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

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (6) at 1059.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 3, (20) at 1064.

**Legislative Research Commission Note (10/19/2004).** 2004 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 11, provides, "Notwithstanding KRS 157.420(2), all certified and classified staff employed by local boards of education shall receive:

- (1) A cost-of-living adjustment of not less than two percent in fiscal year 2004-2005 and shall apply retroactively to July 1, 2004; and
- (2) Effective January 1, 2005, an additional cost-of-living adjustment of one percent is provided. The cost-of-living adjustments shall be in addition to the normal rank and experience increases attained by certified staff and in addition to any salary increase a classified employee might obtain due to additional experience or job classification."