

State board tried to regulate poor performing virtual school. KY lawmakers overruled them

By [Valarie Honeycutt Spears](#)

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An exterior shot of the Kentucky Department of Education at 300 Sower Boulevard in Frankfort, Kentucky, on February 7, 2025. Tasha Poullard tpoullard@herald-leader.com

Kentucky lawmakers are blocking the state board of education's efforts to cap virtual school enrollment at districts statewide and rein in a poorly performing district where about 275 students are enrolled for in-person classes, and about 2,800 are enrolled virtually.

The efforts come as Cloverport Independent School District, in Breckinridge County, recorded the lowest possible rating for school

performance last school year.

Most students in the district are enrolled in a virtual school, called the Kentucky Virtual Academy, that opened last year. Enrollment at the school exploded in its first year, largely with students who struggled in traditional classroom settings, said Cloverport Independent Superintendent Keith Haynes.

"The explosive growth of KYVA is unprecedented. We do not believe that one year of data is sufficient to make a value judgment on our virtual program, particularly given its uniqueness in the Commonwealth," Haynes said in an interview with the Herald-Leader. "We are committed to continuing to serve the families that have put their faith in our school and look forward to watching our students flourish in an environment that best fits them."

The state's attempt to cap virtual enrollment comes as some Kentucky school districts have begun offering virtual-only academies, and the Republican-led General Assembly has attempted to push through the use of taxpayer funds for programs other than traditional public schools.

But the district's marks last year on statewide assessments, which measure academic proficiency, raised alarms for the state board of education. In addition to low scores, the district failed to meet federal minimums for the percentage of students who take tests.

The board sought to limit enrollment in virtual schools to 10% of a district's total enrollment. Though the measure didn't directly mention Cloverport, the small district about 140 miles west of Lexington on the Ohio River would be the only one where current enrollment would be

affected by the cap.

Several other districts have virtual academies, but none as large as Cloverport. Marion and Barren counties have the next-largest percentage of students enrolled online, with 6% of total enrollment. Fayette County, through its Success Academy, has 1% of students enrolled virtually.

The cap was intended to “ensure school districts have the capacity to meaningfully serve students enrolled in their virtual programs and to transition students out of virtual programs when students are not successful in a virtual environment,” said Jennifer Ginn, spokesperson for the Kentucky Department of Education.

State lawmakers blocked the cap last month, and on Thursday they gave initial approval to a bill that would stop any enrollment restrictions on Kentucky virtual schools until 2028.

The cap — and the ban on enrollment restrictions — would apply to all virtual schools statewide.

Bill would halt regulations on virtual classes

This past fall, the Kentucky Board of Education urged Cloverport on several occasions to comply with state regulations on class sizes and student-to-teacher ratios, both of which were higher than the state allows.

In a November 15 letter to Kentucky Education Commissioner Robbie Fletcher, Haynes said the issues would be resolved soon with rigorous oversight.

"I apologize and am quite frankly embarrassed, that the (Kentucky Department of Education) had to divert its attention to our district over this matter," Haynes said.

But in December, the state board sought the virtual enrollment cap, and at legislative hearings in February, Haynes criticized the state's scrutiny of Cloverport.

"Utilizing data of just one school year to condemn a brand-new program does not give our teachers and staff the chance to work with our students and improve," Haynes told lawmakers.

The district's Kentucky Virtual Academy now has 175 state-certified teachers, he said.

[Senate Bill 268](#), sponsored by Sen. Aaron Reed, R-Shelbyville, would stop the state board from capping enrollment in virtual programs, as well as stopping the board from reducing or withholding funds to a district based on its operation of a virtual program.

The bill would put some regulations in place for virtual school districts, though.

The bill would not allow regular, in-person instruction at virtual schools. It would allow virtual schools to enroll students who don't live in the district, but the virtual school could not take more than 2% of another district's students without permission from that district.

And virtual schools couldn't continue to enroll non-resident students after June 30, 2028, unless the General Assembly gives permission, indicating the legislature will revisit Cloverport's performance before then.

With Kentucky Virtual Academy parents in the audience, the bill was approved Thursday unanimously by the Senate Education Committee, sending it to the full Senate.

"Two weeks ago, we heard emotional testimony from Kentucky parents terrified that the Governor's Department of Education was about to shut down their children's school without real notice, without consideration of the impact and without a clear plan for what would happen next," Reed said.

A vote on the bill could come as soon as Tuesday.

Class size, academic problems

Ginn, the spokesperson for the Kentucky Department of Education, explained in an interview with the Herald-Leader several areas Cloverport's virtual academy failed to comply with state regulations.

Only four of the 31 elementary school teachers in the program had class sizes that complied with state law, Ginn said. Seventy-six middle school courses and 109 high school courses in the program exceeded maximum class sizes set by state law, she said.

The state also found the district had failed to administer required state assessments to many students in the virtual program.

State law requires every student to participate in state assessments unless the student is granted a medical exemption approved by the Kentucky Department of Education.

At the middle school level, Cloverport tested less than 80% of its virtual program students in editing mechanics, social studies and on-demand

writing during the 2023-2024 school year, with no testing areas meeting the federally required 95% student participation rate, Ginn said.

Perhaps most concerning, Ginn said, was performance on the state tests.

For example, only 9% of third graders in the Cloverport virtual program were distinguished or proficient on the state math assessment, compared to 43% statewide.

In 2022-2023, prior to the creation of the virtual program, Cloverport's enrollment was 276 students.

Last year, that number jumped to 1,227, and six weeks ago it had surged to 3,069.

Current enrollment in the district is about 2,800, Haynes said.

The district saw a surge in virtual enrollment after a Sept. 5, 2024, school shooting in Georgia and a series of threats in Kentucky districts, Haynes wrote to the state board in November 2024.

"Quite frankly, we overestimated our ability to scale up our teaching staff to meet this demand," Haynes wrote.

When students enroll in Cloverport's virtual program, regardless of where they live, the students are included in the district's average daily attendance, Ginn said.

That average daily attendance is factored into the formula for state funding, known as Support Education Excellence in Kentucky,

Students thrive, superintendent says

Haynes told members of the Senate Education committee last week that students in the virtual academy thrive in ways they haven't in other Kentucky public schools.

He noted that the district must improve its testing numbers.

"We recognize that we must increase our testing participation," he said.

Sen. Steve West, R-Paris, chairman of the Senate Education Committee, testified in favor of the bill.

West described the district's problems as "growing pains."

He said the Kentucky Department of Education showed "good reasoning" with their concerns but senators want to see if the Cloverport program can continue and improve.

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