

### 18A.005 Definitions for chapter.

As used in this chapter, unless the context indicates otherwise:

- (1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the secretary;
- (2) "Applicant" means any individual who has applied for a position.
- ~~(3)~~ "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;
- ~~(4)~~ "Board" means the Personnel Board created by KRS 18A.045;
- ~~(4)~~ "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the KRS Chapter 18A classified service, the Executive Branch unclassified service, or a combination thereof, and at least five (5) years of service shall have been in the KRS Chapter 18A classified service;
- (6) "Certification" means the determination by the secretary that an applicant meets the preliminary requirements to fill a position in the classified service. ~~referral of the name of one (1) or more qualified prospective employees by the secretary on request of an appointing officer for consideration in filling a position in the classified service;~~
- (7) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;
- (8) "Classified employee" means an employee appointed to a position in the executive branch classified service whose appointment and ~~continued~~-employment are subject to the classified service provisions of this chapter and the regulations promulgated thereto;
- (9) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under ~~any provision of law~~ KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;
- (10) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;
- (11) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS 18A.015;
- (12) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower ~~minimum salary range~~ pay grade and less discretion or responsibility;
- (13) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the context indicates otherwise;
- ~~(13) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 or who has qualified to be placed on a register;~~
- (14) "Employee" means a person regularly appointed to a position in the state service as provided for in KRS 18A.005 to 18A.204 for which he is compensated on a full-time, part-time, or interim basis;
- (15) "Federally Grant funded time-limited employee" means an employee in the unclassified service, appointed to a position that is funded one hundred percent (100%) by a federal or other grant or

grants. An employee appointed to a federally grant funded time-limited position shall be required to meet the minimum requirements for the classification in which he or she is hired and, subject to the provisions of KRS 18A.113, shall serve at the pleasure of the appointing authority during a period of time that shall not exceed the life of the federal or other grant that funds the position. A federally grant funded time-limited employee who has been aggrieved by notice of disciplinary action or termination, other than an action based on expiration of the federal grant funding, may petition the appointing authority of the agency for the opportunity to be heard by the appointing authority or his designee prior to the effective date of the disciplinary action or termination. The decision of the appointing authority shall be final except as provided by KRS 18A.095(~~11~~14) and 18A.140. A grantfederally funded time-limited employee shall not have the right of appeal to the Personnel Board except as provided by KRS 18A.095(~~11~~14) and 18A.140;

(16) "Federally-Grant funded position" means a full-time or a part-time position in which the unclassified employee is eligible for benefits at the same level as a classified employee in a permanent position;

(17) "Full-time employee" means an employee in a full-time position;

(18) "Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:

(a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and

(b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time;

(19) "Initial probation" means the period of service following initial appointment to any position under KRS ~~18A.010 to 18A.200~~ Chapter 18A which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted or placed on leave in excess of twenty (20) ~~consecutive~~ work days during this period, his initial probation shall be extended for the same length of time as the ~~granted~~ leave to cover such absence;

(20) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration in a single department or office in a twelve (12) month period;

(21) "Interim position" means a position established to address a one-time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;

(22) "Part-time employee" means an employee in a part-time position;

(23) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month. Work hours, leave hours, and overtime earned hours shall count towards the one hundred (100) hour requirement;

~~(24) "Penalization" means demotion, dismissal, suspension, fines, and other disciplinary actions; involuntary transfers; salary adjustments; any action that increases or diminishes the level, rank, discretion, or responsibility of an employee without proper cause or authority, including a reclassification or reallocation to a lower grade or rate of pay; and the abridgment or denial of other rights granted to state employees;~~

~~(2425)~~ "Position" means an office or employment in an agency (whether part-time, full-time, or interim, occupied, or vacant) involving duties requiring the services of one (1) person;

~~(2526)~~ "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;

~~(2627)~~ "Promotional probation" means the period of service, consistent with the length of the initial probationary period, following the promotion of an employee with status which must be successfully

completed in order for the employee to retain the position to which he has been promoted. If the employee is granted or placed on leave in excess of twenty (20) ~~consecutive~~ work days during this period, his promotional probation shall be extended for the same length of time as the ~~granted~~ leave to cover such absence;

~~(2728)~~ "Qualifying" means the ~~selection method type which results when the employee satisfies the required~~ knowledge, skills, and abilities necessary for a job classification ~~cannot be accurately measured by written examination~~;

~~(2829)~~ "Reallocation" means the correction of the job classification of an existing filled position by placement of the position into the job classification that the Cabinet determines is the most appropriate for the duties the employee has been and shall continue to perform;

~~(2930)~~ "Reclassification" shall mean the change in the job classification of an existing filled position ~~employee~~ when a material and permanent change in the duties or responsibilities of that ~~employee~~ position has been assigned ~~in writing~~ by the appointing authority;

~~(3034)~~ "Reemployment" shall mean the rehiring of an employee with status who has been laid-off;

~~(3132)~~ "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of lay-off. Reemployment registers shall be used as provided by the provisions of KRS 18A.095, 18A.110, 18A.113, 18A.130, and 18A.135;

~~(3233)~~ "Register" means any official list of eligibles applicants for a particular class and, except as provided in this chapter, ~~placed in rank order according to the examination scores~~ maintained for use in making original appointments or promotions to positions in the classified service;

~~(3334)~~ "Reinstatement" means the privilege of restoration of an employee who has resigned in good standing with status at the option of the appointing authority, or who has been ordered ~~reinstated~~ restored by the board or a court to a position in his former class, or to a position of like status and pay;

~~(3435)~~ "Reversion" means either the returning of a status employee to his or her last position held in the classified service, if vacant, or the returning of a status employee to a vacant position in the same or similar job classification as his or her last position held in the classified service. Reversion occurs after a career employee is terminated other than for cause from the unclassified service or after a status employee fails to successfully complete promotional probation or after the conclusion of a detail to special duty; ~~Reversion after unsuccessful completion of promotional probation, or in the case of a career employee after termination from the unclassified service, may only be appealed to the Personnel Board under KRS 18A.095(12)~~;

~~(3536)~~ "Seniority" means the total number of months of KRS Chapter 18A state service;

~~(3637)~~ "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service; and

~~(3738)~~ "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

~~(3839)~~ "Unclassified employee" means a state employee exempted from the classified service who is subject to the KRS Chapter 18A personnel system. Unclassified employees subject to personnel systems administered outside of KRS Chapter 18A shall not be considered unclassified employees for purposes of KRS 18A.005 to 18A.204.

**Effective:** April 13, 2010

**History:** Amended 2010 Ky. Acts ch. 153, sec. 1, effective April 13, 2010. -- Amended 2009 Ky. Acts ch. 75, sec. 14, effective June 25, 2009. -- Amended 2004 Ky. Acts ch. 127, sec. 1, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 122, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 91, sec. 1, effective July 14, 2000. -

- Amended 1998 Ky. Acts ch. 154, sec. 10, effective July 15, 1998; and ch. 540, sec. 1, effective July 15, 1998. -- Amended 1990 Ky. Acts ch. 309, sec. 3, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 129, sec. 1, effective July 15, 1988; and ch. 203, sec. 1, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 494, sec. 7, effective July 15, 1986. -- Repealed, reenacted, and amended as KRS 18A.005, 1982 Ky. Acts ch. 448, sec. 1, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 132, sec. 1, effective July 15, 1980; and ch. 355, sec. 4, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 269, sec. 1, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 86, sec. 1, effective March 19, 1976. -- Amended 1974 Ky. Acts ch. 162, sec. 1. -- Created 1960 Ky. Acts ch. 63, sec. 2.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. IV, 5 at 1134.

**Formerly codified as KRS 18.110.**

~~Legislative Research Commission Note (7/13/2004). 2004 Ky. Acts ch. 127, sec. 5, provides that "Employment in a federally funded position, as defined in subsection (16) of Section 1 of this Act [KRS 18A.005], shall not exceed the original grant period or any renewal thereof. A copy of the relevant section or sections of the federal grant which relate to the establishment of a time frame for the position shall become part of the employee's personnel file and shall be reported and justified to the State Personnel Board."~~

**18A.010 General purpose of KRS 18A.005 to 18A.2040 -- Total number of employees limited.**

(1) The general purpose of KRS 18A.005 to 18A.2040 is to establish for the state a system of personnel administration based on merit principles and scientific methods governing the recruitment, examination, appointment, promotion, transfer, lay-off, removal, discipline, and welfare of its classified employees and other incidents of state employment. All appointments and promotions to positions in the state classified service shall be made solely on the basis of merit and fitness, ~~to be ascertained by competitive examination,~~ except as hereinafter specified. The General Assembly finds that this chapter is necessary in order to improve the morale and motivation of state employees and to gain the maximum utilization of human resources in order to provide better service to the citizens of this Commonwealth.

(2) The total number of permanent full-time [KRS Chapter 18A](#) personnel employed in agencies of the executive branch shall not exceed thirty-three thousand (33,000).

~~(3) The provisions of subsection (2) of this section do not apply to teachers, career guidance coaches and counselors, or school administrators employed in state operated area technology centers, or employees of the General Assembly, the Legislative Research Commission, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Court of Justice.~~

~~(4) As used in this section, "career guidance coach" has the same meaning as in KRS 158.810.~~

Effective: April 19, 2012 History: Amended 2012 Ky. Acts ch. 150, sec. 8, effective April 19, 2012. -- Amended 1996 Ky. Acts ch. 350, sec. 4, effective July 15, 1996. -- Repealed, reenacted, and amended as KRS 18A.010, 1982 Ky. Acts ch. 448, sec. 2, effective July 15, 1982 and created in part ch. 381, sec. 8, effective July 15, 1982. -- Created in part 1960 Ky. Acts ch. 63, sec. 1. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, G, 1, (3) at 1071. Formerly codified as KRS 18.120. Legislative Research Commission Note (4/19/2012). 2012 Ky. Acts ch. 150, sec. 10, provides that the Act, which included an amendment to this statute, shall be known as the "Career Pathways Act of 2012."

**18A.015 Creation of Personnel Cabinet -- Provision for administrative costs.**

(1) There shall be created by KRS 18A.005 to 18A.2040 a Personnel Cabinet headed by a secretary who shall be appointed by the Governor.

~~(2) Appropriations shall be made from the general expenditure fund to the cabinet to meet the estimated pro rata share of the cost of administering the provisions of this chapter for departments, commissions, boards, or agencies which receive their sole support from the general expenditure fund.~~

~~(23) The secretary shall maintain accurate records reflecting the cost of administering the provisions of this chapter. At the close of each quarter year period he shall summarize the cost and shall bill each department, commission, board, or agency which receives support from sources other than the general expenditure fund, except the Department of Fish and Wildlife Resources, for a pro rata share of the administrative cost based on the relationship between the quarterly average number of employees in the service of such department, commission, board, or agency and the quarterly average number of employees in the service of all the departments, commissions, boards, and agencies for the appropriate calendar quarter.~~

~~(34) All departments, commissions, boards, or agencies which receive support from other than the general expenditure fund, except the Department of Fish and Wildlife Resources, shall include in their budgets sufficient amounts to meet their pro rata shares of the cost of administering KRS 18A.005 to 18A.2040 and shall remit such shares quarterly to the department cabinet in the manner provided by law.~~

(45) The cabinet is authorized and directed to accept on behalf of the state any grant or contribution, federal or otherwise, made to assist in meeting the cost of carrying out the purposes of KRS 18A.005 to 18A.2040.

Effective: July 15, 1998 History: Amended 1998 Ky. Acts ch. 154, sec. 11, effective July 15, 1998. -- Repealed, reenacted, and amended as KRS 18A.015, 1982 Ky. Acts ch. 448, sec. 3, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 132, sec. 3, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 154, sec. 3, effective June 17, 1978; and ch. 269, sec. 3, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 86, sec. 4, effective March 29, 1976. -- Amended 1974 Ky. Acts ch. 308, sec. 9. -- Amended 1972 Ky. Acts ch. 13, sec. 3. -- Created 1960 Ky. Acts ch. 63, sec. 5. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.160.

**18A.020 Records of Personnel Cabinet subject to open records law -- Employee access to personnel files.**

(1) The records of the cabinet shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.

(2)       -(a) A personnel file shall be maintained by the cabinet and the appointing authority for each employee. The file maintained by the cabinet shall be the official personnel file for the employee. Upon transfer, the personnel file maintained by the appointing authority from which the employee transfers shall be forwarded to the new appointing authority;

(b) Each file shall include, but not be limited to, for each employee, his name, address, title of positions held, classification, rates of compensation, all changes in status including evaluations, promotions, demotions, lay-offs, transfers, disciplinary actions, commendations, awards, and preliminary and other supporting documentation for each action. Each file shall contain the complete record and supporting documentation for each personnel action. The employee's appointing authority shall maintain the employee's evaluation(s) electronically or in writing;

(c) Whenever an employee is reprimanded for misconduct, other infraction, or failure to perform his duties in a proper or adequate manner, the supervising employee taking such action shall document such action in detail, and shall provide the employee with a copy of such documentation. The supervising employee shall inform the employee that he has the right to prepare a written response to the action taken after he has reviewed the written documentation prepared by the supervising employee. Such response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response provided for herein in the employee's personnel file and shall transmit a copy to the cabinet to be placed in the official personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for herein have been placed in his personnel files. The Personnel Cabinet shall implement regulations for the inclusion and removal of written reprimands from an employee's personnel file. A verbal or written reprimand shall not be appealable to the Personnel Board.

(3) Upon written request, an employee shall have the right to examine his personnel file. An employee may comment in writing on any item in his file. Such comments shall be made a part of his file and shall be attached to the specific record or document to which they pertain included in his file.

(4) Upon written request a state employee or, an applicant for employment,~~and an eligible on a register~~ shall have the right to inspect and to copy any record and preliminary documentation and other supporting documentation that relates to him, except that an applicant,~~an eligible,~~ or a state employee shall not have the right to inspect or to copy any examination-preliminary interview materials.

(5) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

Effective: July 15, 1998 History: Amended 1998 Ky. Acts ch. 154, sec. 12, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 494, sec. 8, effective July 15, 1986. -- Repealed, reenacted, and amended as KRS 18.290, 1982 Ky. Acts ch. 448, sec. 4, effective July 15, 1982. --

Created 1960 Ky. Acts ch. 63, sec. 14. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.290.



**18A.025 Appointment of secretary of Personnel Cabinet -- Responsibilities -Organization and duties of cabinet.**

(1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. The secretary shall be a graduate of an accredited college or university and have at least five (5) years' professional experience in human resources personnel administration ~~or in related fields~~, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education in a related field may be substituted for the required experience, and additional professional human resources experience may be substituted for the required education.

(2) The secretary of the Personnel Cabinet, or the secretary's designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) The secretary of the Personnel Cabinet, or the secretary's designee, shall be responsible for communication with and establishing policies applicable to all Executive Branch state employees about personnel and other related issues.

~~(34)~~ There is established within the Personnel Cabinet the following offices, departments, and divisions, each of which shall be headed by either a commissioner, executive director, or division director appointed by the secretary, subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050, depending on the level of the appointment, except that the Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:

(a) Office of the Secretary, which shall be responsible for ~~communication with state employees about personnel and other relevant issues and for the~~ administration and coordination of the following:

1. Office of Employee Relations, composed of the following programs:

a. Workers' Compensation Program pursuant to KRS 18A.375;

~~b. Sick leave Sharing Program, pursuant to KRS 18A.197;~~

~~c. Annual Leave Sharing Program, pursuant to KRS 18A.203;~~

bd. Health and Safety Program;

ce. Employee Assistance Program;

df. Employee Incentive Programs, pursuant to KRS 18A.202; and

eg. Employee Mediation Program; and

~~h. Living Organ Donor Leave Program, pursuant to KRS 18A.194;~~

2. Office of Administrative Services, which shall be responsible for the Personnel Cabinet's administrative functions, composed of the following programs:

a. Division of Technology Services;

b. Division of Human Resources; and

c. Division of Financial Services;

3. Office of Legal Services, which shall provide legal services to the Personnel Cabinet and to executive branch agencies and their representatives upon request;

4. Office of Diversity, Equality, and Training, which shall coordinate and implement diversity initiatives for state agencies, the affirmative action plan established by KRS 18A.138, the state Equal Employment Opportunity Program, and the Minority Management Trainee Program.

5. Governmental Services Center, which shall be responsible for employee and managerial training and organizational development. Any employer whose employees are eligible to receive training from the Center shall share the cost of the training on a pro rata basis;

6. Kentucky Public Employees Deferred Compensation Authority, which shall maintain a deferred compensation plan for state employees; and

7. Office of Public Affairs, which shall assist in all aspects of developing and executing the strategic direction of the cabinet;

(b) Department of Human Resources Administration, which shall be composed of the:

1. Division of Employee Management, which shall be responsible for personnel administration, organizational management, payroll, records, classification, and compensation. The division shall also be responsible for implementing lay-off plans mandated by KRS 18A.113 ~~to 118A.1132~~ and shall monitor and assist state agencies in complying with the provisions of the federal Fair Labor Standards Act and KRS Chapter 18A. The division shall:

a. Maintain the central personnel files mandated by KRS 18A.020 and process personnel documents and position actions;

b. Operate and maintain a uniform payroll system and certify payrolls as required by KRS 18A.125;

c. Maintain plans of classification and compensation for state service and review and evaluate the plans; ~~and~~

d. Coordinate and implement the employee performance evaluation systems ~~throughout state government;~~ ~~and~~

~~e.-~~ Conduct organizational analysis; and a

~~nd~~ (f) Review and effectuate organizational changes pursuant to KRS Chapter 12;

(g) Sick leave Sharing Program, pursuant to KRS 18A.197;

(h) Annual Leave Sharing Program, pursuant to KRS 18A.203; and

(i) Living Organ Donor Leave Program, pursuant to KRS 18A.194.

2. Division of Career Opportunities, which shall be responsible for employment counseling, applicant processing, ~~employment register~~, and staffing analysis functions. The division shall: a. Operate a centralized applicant and employee counseling program; ~~b. Operate, coordinate, and construct the examination program for state employment;~~ be. Prepare registers of candidate employment; and cd. Coordinate outreach programs, ~~such as recruitment and the Administrative Intern Program;~~ and

(c) Department of Employee Insurance, which shall be responsible for the:

1. Health Insurance Program, pursuant to KRS 18A.225;

2. Flexible Benefit Plan, pursuant to KRS 18A.227;

3. Division of Insurance Administration, which shall be responsible for enrollment and service functions;

4. Division of Financial and Data Services, which shall be responsible for fiscal and data analysis functions; and

5. Life Insurance Program pursuant to KRS 18A.205 to 18A.220.

(54) The cabinet shall include ~~principal policymaking or advisory~~ assistants or deputies appointed by the secretary, pursuant to KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and implementation of policy and procedures applicable to Executive Branch employees. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the ~~department~~cabinet.

Effective: June 29, 2017 History: Amended 2017 Ky. Acts ch. 111, sec. 2, effective June 29, 2017. - Amended 2012 Ky. Acts ch. 10, sec. 2, effective July 12, 2012. -- Amended 2005 Ky. Acts ch. 97, sec. 2, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 122, sec. 2, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 70, sec. 2, effective March 15, 2001. -- Amended 2000 Ky. Acts ch. 97, sec. 2, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 82, sec. 2, effective July 15, 1998; and ch. 154, sec. 13, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 116, sec. 1, effective July 15, 1994. -- Amended 1986 Ky. Acts ch. 98, sec. 1, effective July 15, 1986; and ch. 494, sec. 9, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 346, sec. 3, effective July 13, 1984; and ch. 404, sec. 8, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 393, sec. 13; and repealed, reenacted, and amended as KRS 18A.025, ch. 448, sec. 5, effective July 15, 1982. -- Amended 1972 Ky. Acts ch. 13, sec. 4. -- Amended 1966 Ky. Acts ch. 255, sec. 22. -- Created 1960 Ky. Acts ch. 63, sec. 7. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.180. Legislative Research Commission Note (6/20/2005). The Reviser of Statutes has renumbered the subparagraphs of subsection (3)(a) of this statute and deleted the word "which" under the authority of KRS 7.136(1)(a) and (h). Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts ch. 97, sec. 2, amends this section to insert a reference to "KRS 18A.115(g) and (h)" in subsection (4). Because only

subsection (1) of KRS 18A.115 contains paragraphs (g) and (h), and those paragraphs relate to principal assistants exempted from classified service, the reference has been changed in codification to "KRS 18A.115(1)(g) and (h)" under KRS 7.136(1)(e) and (h).

### 18A.030 Duties of secretary.

(1) The secretary shall be the executive and administrative head of the cabinet and shall supervise ~~and control all examinations and the~~ work of the cabinet. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the secretary shall appoint and supervise the staff needed in the cabinet to carry out the purposes of KRS ~~18A.005 to 18A.200~~Chapter 18A except employees of the board who shall be appointed as provided in KRS 18A.090.

(2) Subject to the provisions of this chapter and KRS Chapter 13A, the secretary shall, with the aid of his staff:

(a) Attend all meetings of the board;

(b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(c) Establish general procedures and policies for ~~personnel recruitment, for certification, and for~~ improving the efficiency of employed personnel and for carrying out the purposes of KRS Chapter 18A;

~~(d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;~~

~~(de) Prepare and maintain a record of all class specifications for all KRS Chapter 18A classified positions and make them available to the public employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;~~

(ef) Prepare, in accordance with the provisions of KRS ~~18A.005 to 18A.200~~Chapter 18A and the administrative regulations adopted thereunder, ~~examinations, eligible lists, and ratings~~ of candidates for appointment;

~~(fg) Make certification~~Certify for appointment or promotion within the classified service, in accordance with the provisions of KRS ~~18A.005 to 18A.200~~Chapter 18A. For the filling of positions in the classified service, the secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, skill, character, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(gh) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS ~~18A.005 to 18A.200~~Chapter 18A and administrative regulations prescribed thereunder;

(~~h~~) Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities and services of the ~~department cabinet~~ to this end;

(~~i~~) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for in KRS ~~18A.005 to 18A.200~~ Chapter 18A;

(~~j~~) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS ~~18A.005 to 18A.200~~ Chapter 18A, excluding the board, which shall present its own budget estimates; and

~~(l) Make a report and submit the same to the board, the Legislative Research Commission, and the Governor not later than October first of each year;~~

~~(m) Propose selection method changes for any classification to the Personnel Board with documentation justifying the need for the selection method change. The Personnel Board shall, at its next regularly scheduled monthly meeting, review and comment on any proposed selection method change. A classification shall not have its selection method changed without review and comment by the Personnel Board; and~~

(~~k~~) Discharge the other duties imposed upon him by KRS ~~18A.005 to 18A.200~~ Chapter 18A.

(3) The secretary on behalf of the cabinet may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

(4) The secretary of the Personnel Cabinet shall implement procedures in accordance with the provisions of the Federal Drug-Free Workplace Act of 1988, Subtitle D of Public Law 100-690, so that the Commonwealth of Kentucky can certify that it has met the requirements designed to promote a drug-free workplace for all state employees.

(45) The secretary shall keep records relative to employee turnover, and report to the board, the Governor, and the Legislative Research Commission quarterly. The secretary shall provide each agency with a quarterly turnover report that reflects report shall reflect employee turnover rates by cabinet, department or office, bureau, and division as applicable to that agency, and section. If any cabinet, department, or office, or division bureau, division, or section has a turnover rate of twenty-five fifteen percent (1525%) or more in any twelve (12) month period, the secretary shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor, and the Legislative Research Commission.

~~(5) The secretary shall provide to each new state employee and to each existing state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Health and Family Services and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures, and referral services.~~

~~(6) The secretary shall establish and maintain a list of all filled positions exempted from classified service under KRS 18A.115(1) (e), (g), (h), (i), (k), (t), (w), (aa), and (ab). The list shall include the following information for each filled position: (a) The name of the agency where the position is assigned; (b) The statutory authority for the unclassified status of the position; (c) The title of the position; (d) The pay grade of the position; (e) The annual salary of the employee in the position; and (f) The work county of the employee in the position.~~

~~(7) Beginning September 1, 2010, and every six (6) months thereafter, the secretary shall provide the Governor and the Legislative Research Commission with a copy of the list described in subsection (6) of this section, and shall indicate on the list any position that has been added to the list since the last submission.~~

~~(568)~~ The secretary shall perform organizational analysis and review and effectuate reorganizations for all state agencies pursuant to KRS Chapter 12.

Effective: June 29, 2017 History: Amended 2017 Ky. Acts ch. 53, sec. 2, effective June 29, 2017. - Amended 2010 Ky. Acts ch. 153, sec. 2, effective April 13, 2010. -- Amended 2005 Ky. Acts ch. 99, sec. 95, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 154, sec. 14, effective July 15, 1998; and ch. 426, sec. 77, effective July 15, 1998. -- Amended 1990 Ky. Acts ch. 443, sec. 31, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 494, sec. 10, effective July 15, 1986. - Repealed, reenacted, and amended as KRS 18A.030, 1982 Ky. Acts ch. 448, sec. 6, effective July 15, 1982; and amended ch. 450, sec. 53, effective July 1, 1983. -- Amended 1974 Ky. Acts ch. 162, sec. 4. -- Amended 1972 Ky. Acts ch. 13, sec. 5. -- Created 1960 Ky. Acts ch. 63, sec. 8. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.190.

**18A.032 Applicants to ~~and eligibles for~~ the classified service – ~~[Examination—]~~ Placement on and removal from registers -- Certification for employment.**

- (1) Except as provided by the provisions of this chapter, the secretary may ~~[refuse to examine an applicant; or, after examination, may]~~ disqualify an applicant, remove his name from a register, refuse to certify any individual eligible on a register, or may consult with the appointing authority in taking steps to remove such person already appointed if:
  - (a) It is found that he does not meet any one (1) of the preliminary requirements established for ~~[the examination for]~~ the class of position;
  - (b) He is unable to perform the duties of the class;
  - (c) He has made a false statement of material fact in his application;
  - (d) He has used or attempted to use political pressure or bribery to secure an employment advantage ~~[in the examination]~~;
  - (e) He has directly or indirectly obtained information regarding the screening or selection process ~~[examination]~~ to which, as an applicant, he was not entitled;
  - (f) He has failed to submit his application correctly or within the prescribed time limits;
  - (g) He has taken part in the compilation, administration, or evaluation of selection criteria for the position ~~correction of the examination~~ for which he is an applicant;
  - (h) He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he had knowledge were pending;
  - (i) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;
  - (j) He has been convicted of a crime related to the position held or sought ~~[job related misdemeanor]~~, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or
  - (k) He has otherwise willfully violated the provisions of this chapter.
- (2) Notwithstanding any other provision of law, An individual ~~[eligible]~~ may be removed from consideration for a position by the secretary or an appointing authority:
  - (a) If the individual ~~[eligible]~~ cannot be located using the contact information ~~[by postal authorities at the last address]~~ provided by the individual ~~[eligible]~~;
  - (b) If the individual ~~[eligible]~~ responds in writing that he no longer desires consideration for a position in that class;
  - (c) If the individual ~~[eligible]~~ declines an offer of probationary appointment, promotion, or reemployment to the position(s) ~~[class]~~ for which the register was established;
  - (d) If it is shown that the individual is not qualified or is unsuitable for appointment to the position or class for which the register is established;
  - (e) If the individual ~~[eligible]~~ fails to reply within a period of ten (10) calendar days of the issuance ~~[receipt]~~ of the written or electronic request of the appointing authority for an interview, or fails to appear for an interview which he has scheduled with the appointing authority without good cause;



(f) If the eligible individual accepts an appointment and fails to present himself for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority; ~~or~~

(g) If the individual eligible states in writing declares that he is not available for appointment or does not wish to be considered for appointment; or;

(h) If the individual demonstrates erratic, unsafe, or threatening behavior.

~~(3) When an eligible notifies the cabinet in writing that he is unavailable for employment or employment consideration, the cabinet may remove the name of that eligible from the appropriate register without further notification to the person.~~

~~(4) [When the cabinet is notified in writing by an appointing authority that an eligible has accepted a bona fide offer of probationary appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same or less than that of the class to which he has been appointed].~~

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 154, sec. 15, effective July 15, 1998. --

Amended

1988 Ky. Acts ch. 190, sec. 1, effective April 4, 1988. -- Created 1986 Ky. Acts ch.

494, sec. 1, effective July 15, 1986.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky.

Acts ch.

149, Pt. I, C, 2, (1) at 1059.

**18A.035 Delegation of secretary's powers -- ~~Assistance in testing~~ ~~Membership on Kentucky Employees Retirement System board.~~**

(1) The secretary may from time to time designate in writing an employee of the cabinet to act for him in case of his absence or inability from any cause to discharge the powers and duties of his position. In this case, the powers and duties of the secretary shall devolve upon his designee.

(2) The secretary may request appropriate persons, including officers and employees in the state service, to assist in carrying out the purposes of KRS Chapter 18A. ~~the preparation and rating of tests.~~ Department or office heads shall cooperate to the fullest extent possible in making the services of their employees available for such work.

(3) (a) The secretary may enter into written agreements with an appointing authority which would provide for the delegation of his authority and power to the appointing authority, ~~The secretary is prohibited from delegating any powers or authority pertaining to disciplinary actions, but such agreements shall not pertain to~~ lay-offs, or registers.

(b) All written agreements delegating the secretary's power and authority as provided in paragraph (a) of this subsection shall be specific in nature and ~~renewed~~ reviewed annually.

~~(c) A copy of the written agreements shall be forwarded to the Personnel Board.~~

~~(4) The secretary shall serve ex officio as a member of the board of trustees of the Kentucky Employees Retirement System.~~

Effective: July 15, 1998 History: Amended 1998 Ky. Acts ch. 154, sec. 16, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 180, sec. 1, effective July 15, 1994. -- Repealed and reenacted as KRS 18A.035, 1982 Ky. Acts ch. 448, sec. 7, effective July 15, 1982. -- Created 1960 Ky. Acts ch. 63, secs. 8 and 17. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.200.

**18A.037 New system of job classification and compensation.**

~~(1)~~ The ~~commissioner~~ secretary shall ~~develop and propose a new~~ maintain a system of classification and compensation ~~to be transmitted to the Legislative Research Commission by November 15, 1997. The system proposed by the commissioner shall be developed~~ that utilizes ~~using~~ a nationally-recognized system for evaluating job requirements. The proposed system shall determine the requirements of each job classification by using factors such as, but not limited to, knowledge, skill, effort, responsibility, accountability, problem solving, discretion, challenge, and working conditions, to ensure pay equity as required by KRS Chapters 337 and 344.

~~(2) The commissioner shall include, as a part of the proposal, estimated funding requirements for the implementation of the system.~~

-Effective: July 15, 1998 History: Amended 1998 Ky. Acts ch. 487, sec. 1, effective July 15, 1998. -

- Created 1996 Ky. Acts ch. 296, sec. 1, effective July 15, 1996. 2016-2018 Budget Reference.

See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

#### **18A.040 Compliance with federal standards.**

The board and the secretary shall see that rules, regulations and practices meeting federal merit system standards shall, where such standards apply as a prerequisite for federal grants-in-aid, be in effect continuously, notwithstanding any other provision of KRS ~~Chapter 18A.005 to 18A.200.~~

Effective: April 13, 2010 History: Amended 2010 Ky. Acts ch. 153, sec. 3, effective April 13, 2010. -- Repealed, reenacted, and amended as KRS 18A.040, 1982 Ky. Acts ch. 448, sec. 8, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 308, sec. 22. -- Created 1960 Ky. Acts ch. 63, sec. 22. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.340.

**~~18A.043— Administrative regulations to implement Federal Drug-Free Workplace Act.~~**

~~The secretary of the Personnel Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A, to implement the provisions of the Federal Drug-Free Workplace Act of 1988, Subtitle D of Public Law 100-690, so that the Commonwealth of Kentucky can certify that it has met the requirements designed to promote a drug-free workplace for all state employees.~~

~~Effective: July 15, 1998 History: Amended 1998 Ky. Acts ch. 154, sec. 17, effective July 15, 1998.—  
Created 1990 Ky. Acts ch. 483, sec. 7, effective July 13, 1990. 2016-2018 Budget Reference. See  
State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.~~

**18A.045 Creation of Personnel Board -- Membership -- Prohibited Acts.**

(1) There is hereby created a Personnel Board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The board shall consist of seven (7) members, five (5) of whom shall be appointed by the Governor as provided ~~in KRS 18A.050~~ by this section. Two (2) members of the board shall be elected by classified employees as provided in KRS 18A.0551.

(2) Personnel Board members shall not accept gifts as provided in KRS 11A.045(1), benefit under any contract or agreement as provided in KRS 11A.040(4), or fail to disclose to other members of the board any direct or indirect conflict of interest as described in KRS 11A.005(2)(c).

(3) Any person retaliating in any manner and any person ordering retaliation against a classified employee or a member of his family because he has participated in an election to the board, either by being a candidate or voting for a candidate, shall be subject to the provisions of KRS 18A.990.

(4) The five (5) appointments to the board by the Governor shall be citizens at large who are not associated with state government and subject to confirmation by the Senate.

(5) The election of classified employees to the board shall be held as provided in KRS 18A.0551. Elections shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was elected. If a vacancy occurs prior to the expiration of such term, the board shall fill the vacancy as provided in KRS 18A.060.

(6) If an elected board member separates from the classified service, the member shall immediately vacate his or her position on the board, or their membership shall be terminated by the Board, and the vacancy shall be filled as provided in KRS 18A.060.

(7) Each member shall attend training conducted by the Personnel Cabinet on the administration of KRS Chapter 18A prior to voting on any matters before the board.

Effective: April 13, 2010 History: Amended 2010 Ky. Acts ch. 153, sec. 4, effective April 13, 2010. -- Created 1982 Ky. Acts ch. 448, sec. 9, effective July 15, 1982. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

~~18A.050 Personnel Board — Grandfather clause — Composition — Terms — Automatic termination.~~

~~(1) Any person serving on the board on July 15, 1982, shall serve until the expiration of his current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was appointed as provided in subsections (2) and (3) of this section, except that a person appointed to fill a vacancy prior to the expiration of such term shall be appointed in the same manner as provided in KRS 18A.045 and for the remainder of such term.~~

~~(2) Upon the expiration of the terms of office of the two (2) board members whose terms expire January 1, 1984, the Governor shall appoint two (2) members from a list of four (4) names submitted by the Legislative Research Commission. Thereafter, upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.~~

~~(3) Upon the expiration of the terms of office, of the members whose terms expire December 31, 1982, January 1, 1985, and January 1, 1986, the Governor shall appoint citizens at large who are not associated with state government in any manner. Thereafter upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.~~

~~(4) These five (5) appointments to the board shall be subject to confirmation by the Senate. If the Senate is not in session, these five (5) appointments shall be subject to review by the Interim Joint Committee on State Government which shall hold a public hearing and shall transmit its recommendations to the Senate.~~

~~(5) The initial election of classified employees to the board shall be held as provided in KRS 18A.0551. The two (2) classified employees initially elected to the board shall serve until July 1, 1986. Subsequent elections shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was elected. If a vacancy occurs prior to the expiration of such term, the board shall fill the vacancy as provided in KRS 18A.060.~~

~~(6) If an elected board member accepts an unclassified position with state government, his membership on the board shall be terminated immediately and the vacancy shall be filled as provided in KRS 18A.060.~~

~~(7) If an elected board member accepts a classified position in a cabinet employing another board member or if, through no fault of his own, he is placed in that cabinet, his membership on the board shall not be terminated for the remainder of his term.~~

~~Effective: April 13, 2010 History: Amended 2010 Ky. Acts ch. 153, sec. 5, effective April 13, 2010. -- Amended 1986 Ky. Acts ch. 494, sec. 11, effective July 15, 1986. -- Created 1982 Ky. Acts ch. 448, sec. 10, effective July 15, 1982. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.~~

## 18A.0551 Personnel Board elections -- Procedures.

(1) (a) Elections to the board shall be scheduled every four (4) years on or before June 15. The Personnel Cabinet board shall provide written or electronic notification of the date of the election to all classified employees on or before April 1; and

(b) ~~U~~Upon receipt of the notification provided for by paragraph (a) of this subsection, ~~a~~ classified employee wishing to serve on the board shall notify the board, in writing or electronically, no later than May 15. This notification shall ~~be notarized and shall~~ include the candidate's name, address, unique personal identification number, job classification, ~~and~~ length of state employment, ~~and~~ ~~it shall also include the name and address of his~~ current employer.

(2) ~~On the last working day of April, t~~The cabinet shall determine certify a payroll which employees are eligible to vote in the Personnel Board election as of the last calendar day in April. ~~listing to the board that is current on such day and that contains the name, unique personal identification number, and home address of every classified employee.~~

(3) At least ten (10) working days prior to the election provided for in subsection (1) of this section, the cabinet board shall notify mail to each each classified employee identified in subsection (2) of this section ~~who of the upcoming election and include in the notification a ballot and instructions for voting.~~ ~~se name appeared on the payroll listing certified by the cabinet at his home address: (a) A list of candidates for election to the board; (b) Instructions for voting; (c) A ballot listing the names of all candidates for election to the board; and (d) An envelope for returning the ballot should the classified employee wish to return the ballot by first class mail.~~

(4) Upon receipt of ~~the~~his ballot, a classified employee wishing to participate in the election provided for in subsection (1) of this section shall: (a) Vote for no more than two (2) candidates on the ballot, following the cabinet's instructions for voting; and (b) Submit the ballot by a means and date specified by the cabinet.

(5) The cabinet board shall: (a) receive, validate, and tabulate all returned votes; and (b) transmit the results to the board. ~~ballots, as provided by this subsection and subsection (6) of this section; and (b) Provide the impartial third party with a computer-generated list of the unique personal identification numbers of eligible voters in numerical order.~~

(6) ~~The impartial third party selected by the board shall collect all ballots from the board and and: (a) Set aside, untabulated, any envelope postmarked with, or ballot stamped as received at the board on, a date subsequent to the deadline provided for by this section; (b) Verify the unique personal identification number on the ballot by comparing the number to the computer-generated list of unique personal identification numbers of eligible voters provided by the cabinet; (c) Set aside, untabulated, any ballot containing a unique personal identification number that does not match the unique personal identification number appearing next to the name on the computer-generated list; (d) Tabulate the timely ballots; (e) Compare the total tabulated vote with the total number of eligible employees appearing on the computer-generated list provided by the cabinet; (f) Return the ballots, envelopes, including envelopes that have not been opened; and other election material to the board; and (g) Certify to the board: 1. Tthat the tabulation does not include two (2) or more ballots with the same unique personal identification number; 2. Tthe total number of ballots received; 3. Tthe total number of ballots~~



~~not included in the tabulation, and the reason each such ballot was not included in the tabulation; 4. The total number of ballots included in the tabulation; and 5. The total vote for each candidate.~~

(67) For at least sixty (60) days after the completion of the tabulation provided for by subsection (65) of this section, the ~~ballots, envelopes, and other~~ election materials ~~provided for by this section~~ shall be public record and open to inspection, ~~but~~ however any personally identifiable information, including the home addresses and unique personal identification numbers of the eligible employees and voters, shall be redacted prior to public inspection or disclosure.

(78) The two (2) eligible candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.

(89) Successful candidates shall be notified by the board no later than ten (10) working days after the election. Successful candidates shall take office immediately upon notification.

(910) State employees may use state materials or equipment, except for state-paid first class postage, to vote in the election of classified employees to the board. Except for voting in accordance with this section, any activity related to the election of a classified employee to the board shall not be conducted during working hours.

(1011) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.

Effective: April 13, 2010 History: Amended 2010 Ky. Acts ch. 153, sec. 6, effective April 13, 2010. -- Amended 2002 Ky. Acts ch. 123, sec. 1, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 154, sec. 18, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 307, sec. 1, effective July 15, 1988. -- Created 1986 Ky. Acts ch. 494, sec. 12, effective July 15, 1986. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**18A.060 Vacancies of elected board members to be filled by board.**

(1) If an elected member of the board vacates his seat for any reason other than the normal expiration of his term, the cabinet shall provide written or electronic notification of the vacancy to all classified employees within ~~fifteen-thirty~~ (1530) calendar days of the vacancy.

(2) Classified employees wishing to fill the vacancy shall notify the cabinet-board within ~~ten-fifteen~~ (1015) calendar days of the cabinet's notification of the vacancy.

(3) A majority of the remaining members of the board shall make the appointment to fill the vacancy from the list of those employees who have notified the board under subsection (2) of this section.

Effective: July 15, 1998 History: Amended 1998 Ky. Acts ch. 154, sec. 19, effective July 15, 1998. -- Created 1982 Ky. Acts ch. 448, sec. 12, effective July 15, 1982. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**18A.065 Oaths, testimony, and production of records.**

The board, each member of the board, the executive director and any hearing officer of the board and the secretary shall have the power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by KRS 18A.005 to 18A.~~204200~~. [Any subpoena issued by the board or the secretary and any application of the board's inherent authority as an administrative law forum may be enforced through the Franklin Circuit Court.](#) Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony therein shall be subject to the provisions of KRS 18A.990.

Effective: July 15, 1998 History: Amended 1998 Ky. Acts ch. 154, sec. 20, effective July 15, 1998. -- Repealed, reenacted, and amended as KRS 18A.065, 1982 Ky. Acts ch. 448, sec. 13, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 308, sec. 18. -- Created 1960 Ky. Acts ch. 63, sec. 18. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.280.

**18A.070 Personnel board -- Organization -- Meeting notices required -- Records to be public.**

- (1) The board shall annually elect one (1) of its members chairman and one (1) of its members vice chairman.
- (2) The board shall meet at such time and place as shall be specified by call of the chairman. At least one (1) meeting shall be held each month.
- (3) All meetings shall be open to the public as provided in KRS 61.805 to 61.850. Any head of the department or agency employing an elected member of the board or any other person shall not prohibit him from attending meetings of the board, conducting the business of the board, influence or attempt to influence any decision made by that person, discipline the individual for attending the meeting, or take any other action inimical to the interests of the employee or his family. Any person violating the provisions of this subsection shall be subject to the provisions of KRS 18A.990.
- (4) At least seven (7) days in advance of each regular meeting, notice shall be given in writing to each member of the board by the executive director and the executive director shall post a notice of each meeting on the board's website in accordance with KRS 61.820. ~~in each building owned or leased by the state which houses at least five hundred (500) employees.~~ Four (4) voting members shall constitute a quorum for the transaction of business. The board shall keep records and minutes of its business and official actions.
- ~~(5)~~ (6) Prior to each board meeting, the board shall publish its agenda on the board website.

Effective: July 15, 1988 History: Amended 1988 Ky. Acts ch. 278, sec. 1, effective July 15, 1988. -- Created 1982 Ky. Acts ch. 448, sec. 14, effective July 15, 1982. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

### 18A.075 Duties of Personnel Board.

Subject to the provisions of this chapter and KRS Chapter 13A, it shall be the duty of the board to:

(1) As provided by ~~KRS 18A.0751this chapter~~, promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.2040, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants for the purpose of carrying out the provisions of this chapter;

(2) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 18A.005 to 18A.2040, and to require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A; and to make such investigation as may be requested by the General Assembly or the Governor and to report thereon;

(3) ~~Conduct Hhearings of~~ appeals ~~as provided in KRS 18A.095 and in accordance with KRS Chapter 13B~~ as provided in KRS 18A.095 and in accordance with KRS Chapter 13B ~~from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, from KRS Chapter 18A classified and KRS Chapter 18A unclassified employees who have been dismissed, demoted, suspended as provided in KRS 18A.095, or reduced in pay or grade for cause, and from officers or employees serving under the personnel systems created by this chapter, as provided by 1986 Acts Ch. 494;~~

(4) In cooperation with the secretary, promote public understanding of merit principles in government service;

(5) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel board;

(6) Make annual reports to the Governor, the General Assembly, the Legislative Research Commission, and the secretary of the Personnel Cabinet, ~~and the co-chairs of the Interim Joint Committee on State Government prior to October 1. The board shall make biennial reports to the General Assembly~~, which reports shall be a public record freely available to those persons interested in obtaining a copy. At a minimum, the annual report shall include the following information derived from the appeals filed during the applicable calendar year; but not limited to: (a) number of appeals filed, (b) number of appeals filed by KRS Chapter 18A classified employees, KRS Chapter 18A classified employees without status, and KRS Chapter 18A unclassified employees; (c) type and individual total of each type of allegation appealed; (d) number of appeals settled, mediated, or withdrawn; (e) number of appeals in which dispositive motions were filed; (f) of the dispositive motions filed, number of motions that were sustained and number that were overruled; (g) number of hearings held and total days of all hearings; (h) outcome of recommended order (appeal sustained or dismissed); (i) Board outcome; (j) whether judicial review occurred; (k) appellate court outcome, if applicable; and (l) total expense for hearing officers; - The board may request state agencies to provide information to assist the board in compiling the reports, which shall include the following: (ma) The number of merit state employees at the beginning and the end of the reporting period; (bn) The total number of grievances filed and mediation requests made by merit employees during the reporting period; (oe) A tabulation of the stages in which employee complaints grievances were resolved during the reporting period; and (dp) The average

amount of time taken to resolve employee complaints/grievances during the reporting period, by stage. The board may request state agencies to provide information to assist the board in compiling the report;

(7) Advise the Governor and the secretary with respect to the administration of the personnel system created by this chapter;

(8) Consider and act on such matters as may be referred to the board by the secretary; and

(9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the secretary in fostering the interest of institutions of learning and of civic, professional, and employee organizations in the improvement of personnel standards in the state service; and

~~(10) Make a determination, upon receiving notification of proposed classification selection method changes with proper documentation for the necessity for the change from the secretary, on classification selection method changes prior to those changes occurring. Upon receiving a classification selection method change proposal from the secretary, the board shall, at its next regularly scheduled monthly meeting, review and comment on proposed selection method changes. No classification shall have its selection method changed without review and comment from the board.~~

Effective: April 13, 2010 History: Amended 2010 Ky. Acts ch. 153, sec. 7, effective April 13, 2010. -- Amended 1998 Ky. Acts ch. 154, sec. 21, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 494, sec. 13, effective July 15, 1986. -- Repealed, reenacted, and amended as KRS 18A.075, 1982 Ky. Acts ch. 448, sec. 15, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 74, Art. II, sec. 9(2); and ch. 308, sec. 10. -- Created 1960 Ky. Acts ch. 63, sec. 6. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.170.

**18A.0751 Personnel Board -- Regulatory authority.**

(1) The board shall promulgate comprehensive administrative regulations for the classified service governing:

(a) ~~The procedure of Appeals~~ by [KRS Chapter 18A classified and KRS Chapter 18A unclassified](#) state employees;

(b) Demotion;

(c) Dismissal;

(d) ~~Fines, suspensions, and other disciplinary measures;~~

~~(e) Probation, provided that the board may not require an initial probationary period in excess of six (6) months except as provided in subsection (4)(e) of this section and KRS 18A.005;~~

~~(ef)~~ Promotion;

~~(g) Reinstatement;~~

~~(fh)~~ Transfer; and

~~(gi)~~ Employee grievances ~~and complaints.~~

(2) (a) These administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body, other than the personnel board, shall promulgate administrative regulations governing the subject matters specified in this section.

(3) Prior to filing an administrative regulation with the Legislative Research Commission, the board shall submit the administrative regulation to the secretary for review:

(a) The secretary shall review the administrative regulation proposed by the board not more than twenty (20) days after its submission to him;

(b) Not more than five (5) days after his review, the secretary shall submit his recommendations in writing to the board;

(c) The board shall review the recommendations of the secretary and may revise the proposed administrative regulation as it deems necessary; and

(d) After the board has completed the review provided for in this section, it may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(4) These administrative regulations shall provide:

(a) For the procedures to be utilized by the board in the conduct of hearings by the board, consistent with the provisions of KRS Chapter 13B;

(b) For reduction in rank or grade as provided by this chapter;

(c) For discharge, as provided by this section;

~~(d) For imposition, as disciplinary measures, of a fine of not more than ten (10) working days' pay, or for suspension from the service without pay for no longer than thirty (30) working days and, in accordance with the provisions of KRS 18A.095, for the manner of notification of the employee of the discipline and his right of appeal;~~

~~(e) No probationary period may exceed twelve (12) months, except as provided in KRS 18A.005. The secretary may recommend an initial probationary period in excess of six (6) months for specific job classifications to the board, but no probationary period may exceed twelve (12) months. This recommendation shall take the form of a proposed administrative regulation that shall be submitted to the board for approval. The subject of the administrative regulation shall be limited to job classifications for which an initial probationary period in excess of six (6) months is required and shall specify:~~

~~1. The job classification for which an initial probationary period in excess of six (6) months is required; and~~

~~2. The specific number of months constituting the initial probationary period for the job classification. No other administrative regulation shall include any provision prescribing an initial probationary period in excess of six (6) months, except as provided in KRS 18A.005. Upon approval by the board of the proposed administrative regulation provided for in this paragraph, the board shall file the regulation with the Legislative Research Commission as provided by KRS Chapter 13A;~~

~~(d)f~~ For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct, and seniority, and performance evaluations. Except as provided by this chapter, vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

~~(g) For reemployment of laid-off employees in accordance with the provisions of this chapter;~~

~~(h) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges as provided by the provisions of KRS 18A.1131(3)(a);~~

~~(e)i~~ For establishment of a plan for resolving KRS Chapter 18A classified employee grievances and complaints. This plan shall not restrict rights granted employees by the provisions of this chapter;

~~(j) For promotion of career employees to positions in the unclassified service without loss of status to the individual employees so promoted, as provided by this chapters; and~~



(f) For any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

Effective: July 14, 2000 History: Amended 2000 Ky. Acts ch. 91, sec. 2, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 154, sec. 22, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 20, effective July 15, 1996. -- Amended 1988 Ky. Acts ch. 203, sec. 2, effective July 25, 1988. -- Created 1986 Ky. Acts ch. 494, sec. 14, effective July 15, 1986. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

18A.080 Personnel Board -- Compensation -- Attendance.

(1) Except as provided in KRS 18A.200, members of the board shall receive compensation of one hundred dollars (\$100) per diem for each meeting of the board and reimbursement for actual and necessary expenses in accordance with state regulations and standards applicable to state employees.

(2) In addition to payments for attendance at board meetings all board members may also be paid one hundred dollars (\$100) for each day spent in the preparation of recommended orders, the review of transcripts or other matters related to appeals before the board.

(3) Any board member missing three (3) consecutive regular meetings shall be deemed to have vacated his office. Replacements to the board shall be made as provided in KRS 18A.~~045050(2)~~ and 18A.060.

Effective: July 14, 2000 History: Amended 2000 Ky. Acts ch. 91, sec. 3, effective July 14, 2000. -- Created 1982 Ky. Acts ch. 448, sec. 16, effective July 15, 1982. 2020-2022 Budget Reference. See State/Executive Branch Budget, 2020 Ky. Acts ch. 92, Pt. I, C, 2, (1) at 869.

**18A.090 Personnel Board to hire full-time staff -- General counsel may be designated assistant attorney general.**

(1) As provided by the budget enacted by the General Assembly and other laws applicable to state personnel, the board shall appoint an executive director who shall be the chief administrative officer of the board and serve as secretary to the board. He shall have proven administrative and managerial experience, at least five (5) years' professional experience in human resources administration, and familiarity experience with application of equal employment opportunity laws and regulations, and known sympathies with the merit principles in government and dedication to the preservation of these principles. The board shall appoint other employees it deems necessary in accordance with the provisions of this chapter. The salaries of the executive director and other employees of the board shall be determined by order of the board. The executive director of the board shall prepare the budget request for approval by the board in the form and manner required by applicable law. For the purposes of KRS Chapter 48 the board shall be considered a budget unit.

(2) The board shall appoint a general counsel pursuant to KRS 12.210 to provide legal services for the board. Upon request of the board, the Attorney General may designate the general counsel as an assistant attorney general. The general counsel provided for by this subsection shall not be employed by personal service contract and shall be a full-time employee of the board. The general counsel shall serve as a hearing officer for the board.

Effective: July 15, 1986 History: Amended 1986 Ky. Acts ch. 494, sec. 15, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 111, sec. 22, effective July 13, 1984. -- Created 1982 Ky. Acts ch. 448, sec. 18, effective July 15, 1982. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

18A.095 Rights of ~~KRS Chapter 18A executive branch~~ employees.

(1) A ~~KRS Chapter 18A~~ classified employee with status shall not be dismissed, demoted, suspended ~~without pay, or involuntarily transferred~~

~~otherwise penalized~~ except for cause.

(2) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory, ~~or~~ regulatory, or policy violation;
2. The specific action or activity on which the intent to dismiss is based;
3. The date, ~~time,~~ and place of such action or activity; and
4. The names of the parties involved;

(b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the ~~head of the cabinet~~ appointing authority or agency or his designee; and

(c) Whether the employee is placed on administrative leave by the appointing authority with pay upon receiving the intent to dismiss letter prior to the agency's final action.

(3) The Personnel Cabinet shall prescribe and distribute a pretermination form to be completed and forwarded by an employee who wishes to appear before the ~~head of the cabinet or agency or his designee, to each~~ appointing authority or his designee. The form shall be attached to every notice of intent to dismiss and shall contain written instructions explaining:

- (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
- (b) The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the ~~head of the cabinet or agency~~ appointing authority or his designee.

(5) Unless ~~waived by the employee~~ agreed to by the appointing authority or his designee and the employee, the appearance shall be scheduled within six (6)

working days after receipt of an employee's request to appear before the ~~head of the cabinet or agency~~ appointing authority or his designee, excluding the day his request is received.

(6) No later than five (5) working days after the employee appears before the ~~head of the cabinet or agency~~ appointing authority or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:

(a) Determine whether to dismiss the employee or to ~~alter, modify,~~ or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(7) If the ~~cabinet or agency head~~ appointing authority or his designee determines that the employee shall be

dismissed ~~or otherwise penalized~~, the employee shall be notified in writing of:

(a) The effective date of his dismissal ~~or other penalization~~;

(b) The specific reason for ~~the dismissal~~ this action, including:

1. The statutory ~~or~~ regulatory or policy violation;
2. The specific action or activity on which the dismissal ~~or other penalization~~ is based;
3. The date, ~~time,~~ and place of the action or activity; and
4. The names s of the parties involved; and

(c) That he may appeal the dismissal ~~or other penalization~~ to the board within ~~thirty (30) calendar~~ sixty (60) days after receipt of this notification, excluding the day he receives notice.

(8) A KRS Chapter 18A classified employee with status who is demoted, suspended without pay, or ~~involuntarily transferred~~ otherwise penalized shall be notified in writing of:

(a) The demotion, suspension, or ~~involuntary transfer~~ other penalization;

(b) The effective date of the demotion, suspension, or ~~involuntary transfer~~ other penalization;

(c) The specific reason for the ~~demotion, suspension, or involuntary transfer~~ action including:

1. The statutory, ~~or~~ regulatory, or policy violation, or business need, if applicable;
2. The specific action or activity on which the demotion, suspension, or involuntary transfer ~~other penalization~~ is based;
3. The date, ~~time,~~ and place of the action or activity; and
4. The names s of the parties involved; and

(d) That he or she has the right to appeal to the board within thirty (30) calendar ~~sixty (60)~~ days, excluding the day that he or she received notification of the personnel action.

(9) Any KRS Chapter 18A unclassified employee who is dismissed, demoted, suspended without pay, or involuntarily transferred ~~otherwise~~

~~penalized~~ for cause may, within thirty (30) calendar days after the dismissal, demotion, suspension, or involuntary transfer ~~other form of penalization~~, appeal to the board for review thereof.

(10)

(a) An employee whose position is reallocated or reclassified shall be notified in writing by the appointing authority of:

1. The reallocation or reclassification; and
2. If the reallocation or reclassification is to a lower grade, his right to request reconsideration by the secretary within ten (10)

working days of receipt of the notice, excluding the day he receives notification.

~~(b) He shall be provided with a form prescribed by the secretary on which to request reconsideration.~~

~~(b~~e) The employee shall file a written request for reconsideration of the reallocation or reclassification to a lower grade ~~of his position~~ with the secretary in a manner and form prescribed

by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty

(60) calendar days after the request has been filed by an employee. The secretary's review is final and is not appealable to the Personnel Board. ~~After~~

~~reconsideration of the request by the secretary, the employee may appeal to the board.~~

~~(11) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.~~

~~(1112) Any applicant, classified employee, or grant funded time-limited employee may appeal to the board an action alleged to be based on~~

~~discrimination due to race, color, religion, national origin, sex, disability, or age~~

~~forty (40) and above or any other category protected by state or federal civil rights laws. Nothing in this section shall be construed to preclude any~~

~~applicant, classified, or unclassified employee from filing with the Kentucky Commission on~~

~~Human Rights a complaint alleging discrimination on the basis of race, color,~~

~~religion, national origin, sex, disability, or age in accordance with KRS Chapter~~

~~344. Appeals alleging discrimination shall be filed within thirty (30) calendar days after the alleged unlawful practice occurs.~~

~~(12) Any applicant for KRS Chapter 18A employment who has been notified by the Personnel Cabinet that he or she did not meet minimum qualifications may request reconsideration from the secretary not later than ten (10) calendar days after the notification was sent. The secretary's review shall be completed within ten (10) calendar days from the receipt of the request for reconsideration. The secretary's review shall be final and shall not be appealable to the Personnel Board.~~

~~(13) Any applicant for employment in a classified position may appeal the hiring agency's final non-selection based on an alleged violation of merit appointment and promotion provisions contained in KRS Chapter 18A or the regulations promulgated thereto. The appeal shall be filed not later than thirty (30) calendar days after the notice of non-selection was mailed or sent electronically.~~

~~(13) When an eligible's name is removed from a register, the secretary shall notify the~~

~~eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.~~

(14) When a qualified employee's name is removed from a register, the employee may petition the secretary for the opportunity to be heard by the secretary or his designee. The petition shall be delivered to the secretary in writing or electronically not later than ten (10) calendar days after the removal notification was sent. The secretary's decision shall be final and not appealable to the Personnel Board.

~~(14) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board.~~

~~(b) Any applicant whose application for admission to an open competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board.~~

~~(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly.~~

~~(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.~~

~~(15) An evaluation may be appealed to the board if an employee has complied with the review procedure established in KRS 18A.110(7)(j).~~

(15)(16) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. ~~Appeal forms shall be available at the employee's place of work.~~ The Personnel ~~Board~~Cabinet shall be responsible for the distribution of these forms.



(b) The appeal form shall be attached to any notice, ~~or copy of any notice,~~ of dismissal, demotion, suspension, ~~fine, or~~ involuntary transfer, ~~or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section.~~ The appeal form shall instruct the employee to state whether he is a KRS Chapter 18A classified or KRS Chapter 18A unclassified employee, his full

name, his appointing authority, work station address and telephone number, home address and personal telephone number, personal email address,

and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney.

(c) The form shall also instruct a KRS Chapter 18A classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct ~~a KRS Chapter 18A~~ unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal, demotion, suspension, or involuntary transfer.

(d) Any appeal form filed by a classified or unclassified employee shall identify the statute, regulation, or policy that was allegedly violated.

~~(e)~~ Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.

~~(151617)~~ All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

~~(161718)~~ (a) The board ~~shall~~ may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed, demoted, suspended without pay, or involuntarily transferred. The board ~~shall~~ may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100.

(b) Any investigation by the board of any matter related to an appeal filed by an

employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

(~~1718~~<sup>19</sup>) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

- (a) Employ class action procedures; or
- (b) Conduct test representative cases.

(~~1819~~<sup>20</sup>) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(~~1920~~<sup>21</sup>) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

(~~2021~~<sup>22</sup>) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately ~~restore~~<sup>reinstate</sup> the employee to his former position or a position of like status and pay, without loss of pay for the period of ~~time at issue~~<sup>his penalization</sup>, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate ~~restoration~~<sup>reinstatement</sup> of the employee to his former position or a position of like status and pay, without loss of pay for the period of ~~time at issue~~<sup>his penalization</sup>, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to ~~alter,~~ modify, or rescind the ~~disciplinary~~ action at issue.

(d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

~~(212223)~~ If a final order of the board is appealed, a court ~~may~~ award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.

~~(232224)~~ When any employee is dismissed and not ordered ~~restored~~ reinstated after the appeal, the Board, in its discretion, may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

~~(232425)~~ After a final decision has been rendered by the board or court, an employee who prevails in his appeal ~~may~~ be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

~~(242526)~~ If the appointing authority appeals the final order of the board, unless the board rules otherwise, the ~~restored~~ reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

~~(252627)~~ After a final decision in a contested case has been rendered by the last administrative or judicial body to which the case has been appealed, the board shall make the decision available to the public in electronic format on its Web site and shall organize the decisions according to the statutory basis for which the appeal was based.

(2627) Appeals concerning dismissals of classified status employees shall take precedence for hearings before the Personnel Board over all other appeals.

(28) Any KRS Chapter 18A employee who is not restored to a position pursuant to KRS 61.371 to 61.377, or who is dismissed without cause within one (1) year after restoration, may appeal to the board. The appeal shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed or sent electronically.

(2729) Except as provided by subsections (7)(c) and (8)(d) of this section, absence of a notice of appeal rights in a written or electronic notification shall not extend the time for filing an appeal with the board. A written notice that does not comply with the requirements of subsections (7)(c), (8)(d), or (15)(b) of this section shall extend the time to appeal to no more than one hundred eighty (180) calendar days from the date of the written notice.

2830) If an individual appealing to the Personnel Board under the provisions of this chapter did not receive written or electronic notification of the alleged unlawful act in question, the individual shall file his or her appeal with the Personnel Board no later than one hundred eight (180) calendar days from the date of the alleged unlawful act.

(28) For the purposes of subsections (2), (3), (4), (5), (6), and (7) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

(29) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

(2931) If a KRS Chapter 18A employee refuses or fails to cooperate as a witness in an agency, Personnel Cabinet, or Personnel Board investigation, hearing, proceeding, or inquiry, the employee may be subject to disciplinary action.

(3032) Unless otherwise provided by this chapter, the board shall not have jurisdiction over any appeal except as authorized by this section.

**18A.100 Appeal of final order of the Personnel Board.**

~~(1) Any final order of the board either upholding or invalidating the dismissal, demotion, suspension, or other penalization of a KRS Chapter 18A classified or an KRS Chapter 18A unclassified employee may be appealed either by the employee or by the appointing authority.~~

~~(2) The party aggrieved may appeal a final order by filing a petition with the clerk of the Franklin Circuit Court in accordance with KRS Chapter 13B.~~

Any party aggrieved by a final order of the board may appeal by filing a petition with the clerk of the Franklin Circuit Court in accordance with KRS Chapter 13B.

Effective: July 15, 1996 History: Amended 1996 Ky. Acts ch. 318, sec. 23, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 475, sec. 2, effective July 15, 1994. -- Repealed, reenacted, and amended as KRS 18A.100, 1982 Ky. Acts ch. 448, sec. 20, effective July 15, 1982. -- Amended 1976 Ky. Acts ch. 62, sec. 13. -- Created 1974 Ky. Acts ch. 147, sec. 1. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.272.

**18A.105 Compensation, retirement system contributions of employee ordered ~~reinstated~~ restored without loss of pay.**

- (1) (a) When a KRS Chapter 18A classified or KRS Chapter 18A unclassified employee has been finally ordered ~~reinstated~~ restored by the board without loss of pay, pursuant to the provisions of KRS 18A.095, the executive director of the board shall forward a certified copy of said order to the Personnel Cabinet and the Finance and Administration Cabinet, which shall process proper payment to the employee for the period of suspension, said payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the "judgments" section of the general fund of the biennial state budget.
- (b) Gross moneys which were earned by the employee from other sources during the period of suspension shall be set-off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the job from which he was dismissed. The Finance and Administration Cabinet shall by regulation provide an administrative procedure for determining reasonable earnings to be so set off.
- (c) All other deductions shall be deducted as required by law or by Finance and Administration Cabinet regulation.
- (2) (a) Both the employee's and employer's contributions to the Kentucky Employees Retirement System or the Teachers' Retirement System, if applicable, shall be based upon the gross amount due the employee, before set off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or ~~Kentucky~~ Teachers' Retirement System have been paid. All retirement systems shall calculate the employee and employer contributions within sixty (60) days of receipt of the request from the agency.
- (b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which he participated prior to his illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system in which he participated before ~~restoration~~ reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which he would have participated had he not been dismissed.

Effective: July 15, 1998 History: Amended 1998 Ky. Acts ch. 154, sec. 24, effective July 15, 1998. -- Repealed, reenacted, and amended as KRS 18A.105, 1982 Ky. Acts ch. 448, sec. 21, effective July 15, 1982. -- Created 1972 Ky. Acts ch. 13, sec. 7. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.275.

**18A.110 Personnel secretary -- Regulatory authority -- Resolution of conflicting provisions of law.**

(1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:

- (a) Applications ~~and examinations and selection process;~~
- ~~(b) Certification and selection of eligibles;~~
- (be) Classification and compensation plans;
- ~~(ce)~~ Incentive programs;
- ~~(de)~~ Lay-offs, furloughs, and reduction of hours;
- ~~(ef)~~ Registers;
- ~~(fg)~~ Types of appointments;
- ~~(gh)~~ Attendance; hours of work; compensatory time; ~~annual, court, military, sick, voting, and special leaves of absence~~ types of leave, with or without pay, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985; ~~and~~
- ~~(hi)~~ Employee evaluations;
- (i) Reinstatements;
- (j) Corrective actions, to include but not limited to reprimands;
- (k) Probationary periods.

(2) The secretary shall promulgate comprehensive administrative regulations for the KRS Chapter 18A unclassified service.

- ~~(3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and~~
- ~~(b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.~~

~~(43)~~ The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(4) The secretary may promulgate administrative regulations to implement scholarship programs, internship programs, education programs, and educational assistance and student loan repayment programs.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the secretary not ~~less~~ more than twenty (20) days after its submission to it; (b) Not ~~more~~less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;

(c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the KRS Chapter 18A classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class.

(b) The secretary shall allocate the position of every employee in the KRS Chapter 18A classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after ~~consultation with notification to~~ appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

~~(b)~~(c) For a pay plan for all employees in the KRS Chapter 18A classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere ~~taking into consideration the effect of seniority on such rates; and~~
3. The state's financial resources; ~~and~~
4. Any other factors deemed relevant.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;



~~(d) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted. For the advertisement and acceptance of applications for at least ten-five (105) days for those positions to be filled by classified appointment or promotion prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall may continue to receive applications and examine-review candidates-applicants on a continuous basis long enough to assure-ensure a sufficient number of eligibles-applicants to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;~~

~~(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;~~

(e) For the rejection of ~~candidates or eligibles~~ applicants who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, education, and experience, or who have attempted any deception or fraud in connection with ~~an examination~~ the application or selection process;

~~(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;~~

~~(g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);~~

~~(h) For lay-offs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;~~

~~(i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, wellness, welfare, counseling, recreation, employee relations, and employee mobility~~ without written examination;

~~(g)~~ For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:

1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;
2. Provide for periodic informal reviews during the evaluation period which shall be documented ~~on~~ in the evaluation ~~form~~ process and pertinent comments by either the employee or supervisor may be included; and

3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;

~~4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board for review after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings;~~

~~54. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. At the discretion of the appointing authority, if sufficient funds are available, the employee may receive a lump sum payment equivalent to two (2) workdays' compensation, not to exceed sixteen (16) hours, instead of the annual leave credit. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance. At the discretion of the appointing authority, if sufficient funds are available, the employee may receive a lump sum payment equivalent to one (1) workday of compensation, not to exceed eight (8) hours, instead of the annual leave credit;~~ and

~~65. Require that an employee who receives the lowest possible evaluation rating shall either be dismissed, demoted to a position commensurate with the employee's skills and abilities or be terminated;~~ and

(h) For probation, which may include the designation of an initial probationary period in excess of six (6) months for specific job classifications, but no probationary period may exceed twelve (12) months, except as provided in KRS 18A.005.

(i) For reemployment of laid-off employees in accordance with the provisions of this chapter;

(j) For emergency appointment of unclassified employees when a state of emergency is declared in the Commonwealth of Kentucky in accordance with KRS Chapter 39A. An appointing authority, in order to prevent stoppage of public services or loss or serious inconvenience to the public, may appoint any qualifying person to such position with the approval of the secretary. Any such person shall be employed only during such emergency, for no more than thirty (30) hours per week and no more than sixty (60) calendar days per year without authorization from the secretary. Terminations of employees hired under this subsection may not be appealed to the Personnel Board.

(k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

~~(8) For any individual hired or elected to office before January 1, 2015, and paid through the Kentucky Human Resources Information System, the Personnel Cabinet shall not require payroll payments to be made by direct deposit or require the individual to use a Web-based program to access his or her salary statement.~~

~~(9) To the extent that KRS 16.010 to 16.199 and administrative regulations promulgated by the commissioner of the Department of Kentucky State Police under authority granted in KRS Chapter 16 conflict with this section or any administrative regulation promulgated by the secretary pursuant to authority granted in this section, the provisions of KRS Chapter 16 shall prevail.~~

**Effective:** July 15, 2016 **History:** Amended 2016 Ky. Acts ch. 109, sec. 10, effective July 15, 2016; and ch. 110, sec. 11, effective July 15, 2016. -- Amended 2015 Ky. Acts ch. 25, sec. 2, effective June 24, 2015. -- Amended 2000 Ky. Acts ch. 501, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 154, sec. 25, effective July 15, 1998; ch. 487, sec. 2, effective July 15, 1998; and ch. 540, sec. 2, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 486, sec. 35, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 309, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 203, sec. 3, effective July 15, 1988; and ch. 414, sec. 1, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 494, sec. 17, effective July 15, 1986. -- Repealed, reenacted, and amended as KRS 18A.110, 1982 Ky. Acts ch. 448, sec. 22, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 269, sec. 4, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 86, sec. 5, effective March 29, 1976. -- Amended 1974 Ky. Acts ch. 110, sec. 1; ch. 162, sec. 5; and ch. 308, sec. 12. -- Created 1960 Ky. Acts ch. 63, sec. 9.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059 **Formerly codified as KRS 18.210.**

**Legislative Research Commission Note (7/15/2016).** This statute was amended in 2016 Ky. Acts ch. 109, sec. 10 and ch. 110, sec. 11. 2016 Ky. Acts ch. 110, sec. 15 provided that ch. 110 takes precedence over ch. 109. Chapter 110 was also the later-passed bill. Therefore, 2016 Ky. Acts ch. 110, sec. 11 has been codified and 2016 Ky. Acts ch. 109, sec. 10 has not.

**Legislative Research Commission Note (7/15/98).** This section was amended by 1998 Ky. Acts chs. 154, 487, and 540. Where these Acts are not in conflict, they have been codified together. Where a conflict exists between Acts chs. 154 and 540, Acts ch. 540, which was last enacted by the General Assembly, prevails under KRS 446.250.

**18A.111 Probationary periods for classified service -- Initial and promotional.**

(1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, and except as provided in KRS 18A.005 and this section, an employee shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employee may be separated from his position ~~or, reduced in class or rank, or replaced on the eligible list during this initial probationary period~~ and shall not have a right to appeal, except as provided by KRS 18A.095. The employee ~~may be placed on an eligible list but~~ shall not be ~~eligible for certified to rehire with~~ the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employee prior to the end of the initial probationary period that he is separated, the employee shall be deemed to have served satisfactorily and shall acquire status in the classified service.

(2) An employee who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted status and may not be demoted, ~~disciplined~~suspended, dismissed, ~~or involuntarily transferred, or otherwise penalized~~, except as provided by the provisions of this chapter.

~~(323)~~ An employee ordered ~~reinstated~~ restored by the board shall not be required to serve a probationary period unless the board rules otherwise.

~~(434)~~ An employee with status, who has been promoted, shall serve a promotional probationary period ~~consistent with the initial probationary period for the job classification. of six (6) months. , except f~~For those employees granted ~~or placed on~~ leave in excess of twenty (20) ~~consecutive~~ work days during this period, ~~such~~ probationary periods shall be extended as prescribed in KRS 18A.005. During this period, he shall retain the rights and privileges granted by the provisions of this chapter to status employees.

~~(545)~~ An employee with status may request that he be reverted to a position in his former class at any time during the promotional probationary period.

~~(656)~~ A laid-off employee who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period. He shall be an employee with status and shall have all rights and privileges granted employees with status under the provisions of this chapter.

~~(7)~~ A former unclassified employee under KRS 18A.115(1)(d), (e), (f), (g), (h), or (i) shall serve an initial probationary period of twelve (12) months if the employee is appointed to a position in the classified service, unless that employee had previously had status in the classified service or had been separated from his or her previous unclassified position for at least one hundred eighty (180) days prior to the effective date of his or her appointment to the classified service.

~~(768)~~ Notification to an employee on initial or promotional probation of the reason the probationary employment has been terminated by the appointing authority shall not confer a right to appeal to the board.

Effective: April 13, 2010 History: Amended 2010 Ky. Acts ch. 153, sec. 9, effective April 13, 2010. -- Amended 2002 Ky. Acts ch. 122, sec. 3, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 154, sec. 26, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 203, sec. 4, effective July 15, 1988. -- Created 1986 Ky. Acts ch. 494, sec. 2, effective July 15, 1986. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

## Replacement for KRS 18A.113, .1131, .1132

### KRS 18A.113: Layoffs, furloughs, and reduction of hours for KRS Chapter 18A; notice

#### ~~18A.113 Lay-off rules — General.~~

- ~~(1) It shall be unlawful to coerce employees who may be or who are subject to lay-off to resign or retire in lieu of lay-off. Dismissals shall comply with statutes relating thereto, and lay-offs shall not be utilized as a method of dismissal.~~
- ~~(2) In the same cabinet, county, and job classification, federally funded time-limited, interim, and probationary employees shall be laid-off before full-time or part-time employees with status. For purposes of lay-off, "probationary employee" does not include an employee with status serving a promotional probation. A cabinet shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.~~
- ~~(3) If two (2) or more employees subject to lay-off in a lay-off plan submitted to the secretary have the same qualifications, the employee with the lesser seniority shall be laid-off first.~~
- ~~(4) An employee who is laid-off shall be placed on a reemployment register for the class of position from which he was laid-off and for any class for which he is qualified. He shall have the right to test for any class of position for which he is qualified to take an examination. If he passes the examination, he shall be placed on the register for the class.~~
- ~~(5) For a period of five (5) years, laid-off employees shall be hired before any applicant or eligible except another laid-off employee with greater seniority who is already on such register.~~
- ~~(6) For a period of five (5) years, a laid-off employee shall not be removed from any register unless:~~
  - ~~(a) He notifies the cabinet in writing that he no longer desires consideration for a position on such register;~~
  - ~~(b) He declines two (2) written offers of appointment to a position of the same classification and salary, and located in the same county, as the position from which he was laid-off;~~
  - ~~(c) Without good cause, he fails to report for an interview after he has been notified in writing at least ten (10) calendar days prior to the date of the interview;~~
  - ~~(d) He is unqualified for appointment;~~
  - ~~(e) He is unable to perform the duties of the class;~~
  - ~~(f) He has made a false statement of a material fact in his application;~~
  - ~~(g) He has used or attempted to use political influence or bribery to secure an advantage in connection with his placement on the register;~~
  - ~~(h) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;~~
  - ~~(i) He has been convicted of a job-related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;~~

~~(j) He cannot be located by postal authorities at the last address provided by him; or~~

~~(k) He has otherwise willfully violated the provisions of this chapter.~~

~~(7) When the cabinet is notified by an appointing authority that a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same as or less than that of the class to which he has been appointed.~~

~~(8) When a laid-off employee is removed from a register he shall be notified in writing and shall be notified of his right to appeal to the board under the provisions of KRS 18A.095.~~

~~Effective: July 13, 2004~~

~~History: Amended 2004 Ky. Acts ch. 127, sec. 2, effective July 13, 2004. — Amended 1998 Ky. Acts ch. 154, sec. 28, effective July 15, 1998; and ch. 540, sec. 3, effective July 15, 1998. — Created 1986 Ky. Acts ch. 494, sec. 4, effective July 15, 1986.~~

~~2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.~~

REPLACE WITH THE FOLLOWING:

(1) For the purposes of this section:

(a) "Furlough" or "reduction in hours" means the temporary reduction of hours an employee is scheduled to work by the appointing authority within a pay period;

(b) "Layoff" means discharge of employment subject to the rights contained in this section.

(2) An appointing authority has the authority to layoff or furlough employees or reduce hours of employment for any of the following reasons:

(a) Lack of funds or budgetary constraints;

(b) A reduction in spending authorization;

(c) Lack of work;

(d) Abolishment of a position;

(e) Efficiency; or

(f) Other material change in duties or organization.

(3) The appointing authority shall determine the classifications affected and the number of employees laid off in each classification and each county to which a layoff applies. In the same department or office, county, and job classification, interim and probationary employees shall be laid-off before full-time or part-time employees with status. For purposes of lay-off, "probationary employee" does not include an employee with status serving a promotional probation.

(4) The provisions of this section shall not apply to grant funded time-limited employees.

(5) The Personnel Cabinet Secretary shall approve all actions taken under subsection (2) and no such layoff, furlough, or reduction of hours may begin until such approval has been granted. The appointing authority with the approval of the secretary has the authority to determine the extent, effective dates, and length of any action taken under subsection (2).

(6) In determining a layoff, the appointing authority shall consider all employees under the same appointing authority, within the classification affected, and within the county affected. Consideration shall be given to the following relevant factors:

- (a) Job performance evaluations;
- (b) Seniority;
- (c) Education, training, and experience; and
- (d) Disciplinary record.

(7) Any KRS Chapter 18A classified employee with status whose position is subject to layoff, furlough, or reduction of hours shall be provided written notice containing the reason for the action at least thirty (30) days in advance of the effective date of the action.

(8) Any KRS Chapter 18A classified employee with status who is laid off shall be eligible to apply as a reemployment applicant for the job classification from which he was laid-off, in the cabinet from which he was laid-off.

- (a) For a period of two (2) years, a reemployment applicant shall be hired before any applicant except another reemployment applicant with greater seniority who is on the same register.
- (b) A reemployment applicant shall not be removed from any register except as provided by KRS 18A.032.
- (c) When a reemployment applicant is removed from a register, he shall be notified in writing or electronically and shall have the right to appeal to the board within thirty (30) calendar days after receipt of the notification, excluding the day he receives notice.
- (d) A reemployment applicant who accepts any classified position, or who retires through the Kentucky Employees Retirement System or Kentucky Teachers Retirement System, shall cease to have eligibility rights as a reemployment applicant.

(9) With the approval of the secretary, the Personnel Cabinet may place employees subject to a

reduction in force.

(10) The secretary shall have the authority to promulgate comprehensive administrative regulations governing this section.

(11) A layoff, furlough, or reduction of hours implemented in accordance with this section shall not be appealable to the Personnel Board.

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~~18A.1131 Lay-off rules applicable to classified employees only.~~

~~(1) A lay-off of a state employee with status in the executive branch due to the abolition of a position, lack of work, or a material change in duties or organization shall comply with the provisions of this section.~~

~~(2) Prior to the notification of an employee that he is subject to lay-off and prior to the lay-off of an employee, the appointing authority shall submit a lay-off plan to the secretary of the Personnel Cabinet for approval. Such plan shall contain the name of the employee and the reasons, in detail, for such lay-off. Upon approval of the plan by the secretary, the employee shall be notified that he is subject to lay-off and of:~~

~~(a) The reason for the lay-off;~~

~~(b) The procedures established by the provisions of KRS 18A.113 and this section for the lay-off of employees; and~~

~~(c) The rights granted employees subject to lay-off and to laid-off employees.~~

~~(3) (a) An employee subject to lay-off shall be transferred to a vacant position of the same pay grade, level of duties, and responsibilities for which he is qualified within the cabinet. Such position shall be located in the same county as the position from which the employee is subject to lay-off;~~

~~(b) If such a vacancy does not exist, the employee shall be transferred to a vacant position within the cabinet for which he is qualified. Such position shall be located in the same county as the position from which the employee is subject to lay-off; and~~

~~(c) If such a position is not available, the employee shall be notified of all vacant positions within the cabinet for which he is qualified to take an examination. The employee shall have the right to take an examination for any vacant position within the cabinet for which he is qualified. If he passes the examination, he shall be appointed to that position before any applicant or eligible on a register, except another laid-off employee with greater seniority already on such register.~~

~~(4) (a) If no position is available to an employee subject to lay-off under the procedure established by subsection (3) of this section, the appointing authority shall notify the employee and the Personnel Cabinet; and~~

~~(b) The Personnel Cabinet shall coordinate efforts to transfer an employee subject to lay-off to another agency. It shall have the authority to transfer an employee subject to lay-off under this section, with the approval of the appointing authority of the agency to which the employee is to be transferred.~~

~~(5) If no position is available, the employee shall have the right to take an examination for any position for which he is qualified. If he passes the examination, he shall be hired before any applicant or eligible on a register, except a laid-off employee with greater seniority already on such register.~~

~~(6) If no position is available to an employee subject to layoff under the procedure established by subsections (3) and (4) of this section, the employee shall be notified in writing that he is to be laid off effective fifteen (15) days after receipt of notice, and of the rights and privileges granted laid-off employees.~~

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 154, sec. 29, effective July 15, 1998; and ch. 487, sec. 3, effective July 15, 1998. -- Created 1986 Ky. Acts ch. 494, sec. 5, effective July 15, 1986.

2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

Legislative Research Commission Note (7/15/98). This section was amended by 1998 Ky. Acts chs. 154 and 487. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 487, which was last enacted by the General Assembly, prevails under KRS 446.250.

~~18A.1132—Lay-off rules applicable to both classified and unclassified employees. (1) Prior to a lay-off of state employees in the executive branch required by a budget reduction plan enacted pursuant to KRS 48.130, each cabinet shall prepare a lay-off plan that complies with the provisions of KRS 18A.113 and this section. (2) Each lay-off plan shall provide that a lay-off of state employees shall occur only after all other cost saving measures are taken and have failed to alleviate the revenue shortfall, as defined in KRS 48.010, of five percent (5%) or less. These measures shall be specified in the plan, in detail, and shall include but not be limited to: (a) A hiring freeze of all types of appointments; (b) A reduction or delay of expenditures that would not prevent the provision of services required by law; (c) Consolidation of offices and job duties that would not prevent the provision of services required by law; (d) Transfer of funds as provided by the budget reduction plan enacted pursuant to KRS Chapter 48; (e) Transfer of funds appropriated for or allotted to vacant positions as provided by the budget reduction plan provided for by KRS 48.130, unless it is certified that the positions are essential and cannot be filled in the period during which lay-offs are to occur by transfer of existing employees of the appointing authority; (f) The filling of vacancies and promotions from within the cabinet; and (g) Transfers of employees within the cabinet as provided by KRS 18A.1131(3) and (4). (3) Each cabinet shall submit: (a) Its lay-off plan; and (b) A list of employees who would remain subject to lay-off after the implementation of cost-saving measures; to the secretary of the Personnel Cabinet for review. Upon approval, the lay-off plans shall be submitted to the Governor for approval. (4) Upon approval of the plan by the Governor, the secretary shall attempt to transfer employees as provided by KRS 18A.1131(4)(b). Employees who cannot be so transferred may be laid-off. (5) If no position is available to an employee subject to lay-off under the procedures established by this section, the employee shall be notified in writing that he is to be laid-off effective fifteen (15) days after receipt of notice and of the rights and privileges granted laid-off employees. (6) When the hiring freeze is ended, laid-off employees shall be hired before any applicant or eligible except laid-off employees already on such registers. Effective: June 25, 2009 History: Amended 2009 Ky. Acts ch. 78, sec. 25, effective June 25, 2009.— Amended 1998 Ky. Acts ch. 154, sec. 30, effective July 15, 1998; and ch. 487, sec. 4, effective~~

~~July 15, 1998.— Amended 1994 Ky. Acts ch. 387, sec. 30, effective July 15, 1994.— Created 1986 Ky. Acts ch. 494, sec. 6, effective July 15, 1986. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Legislative Research Commission Note (7/15/98). This section was amended by 1998 Ky. Acts chs. 154 and 487. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 487, which was last enacted by the General Assembly, prevails under KRS 446.250.~~

**18A.115 Employment exempted from Executive Branch classified service —~~Reversion rights of career employees promoted outside classified service — Transfer of employees to Kentucky Community and Technical College System — Change of personnel system for employees of Department for Technical Education and Department for Adult Education and Literacy — Change of personnel system for some employees of Eastern Kentucky University.~~**

(1) Unless otherwise provided by law, ~~the~~ Executive Branch classified service to which KRS 18A.005 to 18A.2004 ~~shall apply~~applies shall comprise all positions in the Executive Branch classified state service now existing or hereafter established, except the following:

~~(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;~~

~~(b)~~ Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

~~(c)~~ Members and employees of boards and commissions;

~~(d)~~ Officers and employees on the staff of the Governor, the Lieutenant Governor, and the Office of the Secretary of the Governor's Cabinet, ~~and the Office of Program Administration;~~

~~(e)~~ Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions; ~~including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;~~

~~(f)~~ Employees of Kentucky Educational Television ~~who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;~~

~~(g)~~ One Two (2) principal policymaking or advisory assistants or deputies for each person exempted under subsection (1)(e) of this section;

~~(h)~~ One (1) additional principal policymaking or advisory assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the Personnel Cabinet ~~s~~Secretary approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants policymaking or advisory, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the ~~board~~ Personnel Board may approve such an addition or additions on petition of the department head approved by the secretary. ~~Effective August 1, 2010: 1. All positions~~

~~approved under this paragraph prior to August 1, 2010, shall be abolished effective December 31, 2010, unless reapproved under subparagraph 2. of this paragraph; and 2. A position approved under this paragraph on or after August 1, 2010, shall be approved for a period of five (5) years, after which time the position shall be abolished unless reapproved under this subparagraph for an additional five (5) year period;~~

~~(ih) Division directors, subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;~~

~~(ji) Physicians, pharmacists, and dentists employed as such;~~

~~(kj) One (1) private executive secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;~~

~~(k) Contractors or personal service contractors;~~

~~The judicial department, referees, receivers, jurors, and notaries public;~~

~~(ml) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;~~

~~(n) Patients or inmates employed in state institutions;~~

~~(em) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;~~

~~(pn) Interim employees and day laborers;~~

~~(qo) Officers and members of the state militia;~~

~~(rp) Department of Kentucky State Police employees subject to the personnel system under KRS Chapter 16 troopers;~~

~~(sq) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner secretary or shall be participants in a cooperative education program approved by the commissioner secretary;~~

~~(tr) Superintendents of state mental institutions, including heads of centers for individuals with an intellectual disability, and wardens of penal and correctional institutions as referred to in KRS 196.180(2);~~

~~(us) Employees Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;~~

~~(vt) All employees of the Unified Prosecutorial Service County and Commonwealth's attorneys and their respective appointees;~~

~~(w) Chief district engineers and the state highway engineer;~~

~~(xu) Veterinarians employed as such by the Kentucky Horse Racing Commission;~~

~~(yv) Employees of the Kentucky Peace Corps;~~

~~(zw) Employees of the Council on Postsecondary Education;~~

~~(aa) Executive director of the Commonwealth Office of Technology;~~

~~(x) Employees of the Serve Kentucky;~~

~~(y) Persons employed in certified teaching positions at the Kentucky School for the Blind and the Kentucky School for the Deaf; and~~

~~(z) Grant Federally funded time-limited employees as defined in KRS 18A.005; -~~

~~(aa) Employees of the Property Valuation Administrators; -~~

~~(ab) Employees of the Kentucky Communications Network Authority; and~~

~~(ac) Employees of city, local, and county agencies.~~

(2) Nothing in KRS 18A.005 to 18A.2004 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

~~(3) Nothing in KRS 18A.005 to 18A.2004 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.~~

~~(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.~~

(34) Unless otherwise provided by law, employees exempted from KRS Chapter 18A classified service are exempt from the KRS Chapter 18A personnel system.

~~(45) Nothing in KRS 18A.005 to 18A.2004 shall be construed as precluding an appointing authority officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.2004.~~

~~(56)~~ The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

~~(67)~~ On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

~~(78)~~ On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

~~(89)~~ On May 1, 2017, all contract employees of Eastern Kentucky University who are engaged in providing instructional and support services to the Department of Criminal Justice Training shall be transferred to the personnel system under KRS Chapter 18A. All records shall be transferred, including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems for Eastern Kentucky University and under KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No employee shall suffer any penalty in the transfer.

~~(910)~~ Notwithstanding any provision of law to the contrary, for an employee who has previously retired through a Kentucky public pension system, service required to qualify for a right or benefit established pursuant to KRS 18A.005 to 18A.204 shall not include service attained prior to retirement.

Nothing in this subsection is intended, or shall be construed, to nullify credit for experience attained at any point in a person's career.

(1011) All Executive Branch agencies with KRS Chapter 18A classified employees shall be subject to the Personnel Cabinet's regulations, policies, or procedures that pertain to KRS Chapter 18A classified employment.

Effective: March 21, 2017 History: Amended 2017 Ky. Acts ch. 58, sec. 3, effective March 21, 2017. -Amended 2012 Ky. Acts ch. 146, sec. 5, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 24, sec. 25, effective July 15, 2010; and ch. 153, sec. 10, effective April 13, 2010. -- Amended 2007 Ky. Acts ch. 85, sec. 105, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 208, sec. 1, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 85, sec. 43, effective June 20, 2005. - Amended 2004 Ky. Acts ch. 127, sec. 3, effective July 13, 2004; and ch. 191, sec. 51, effective July 13, 2004. -- Amended 2001 Ky. Acts ch. 137, sec. 4, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 203, sec. 6, effective July 14, 2000; and ch. 526, sec. 16, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 540, sec. 4, effective July 15, 1998; and ch. 353, sec. 7, effective July 15, 1998. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 31, effective May 30, 1997. -- Amended 1992 Ky. Acts ch. 100, sec. 11, effective July 14, 1992. -- Amended 1990 Ky. Acts ch 159, sec. 1, effective March 30, 1990; and ch. 496, sec. 25, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 494, sec. 18, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 253, sec. 1, effective July 13, 1984; and ch. 350, sec. 10, effective July 13, 1984. -Repealed, reenacted, and amended as KRS 18A.115, 1982 Ky. Acts ch. 448, sec. 23, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 98, sec. 3, effective July 15, 1980; and ch. 132, sec. 2, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 155, sec. 18, effective June 17, 1978; and ch. 391, sec. 1, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 17, sec. 18, effective January 1, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 32; ch. 162, sec. 3; and ch. 308, sec. 7. -- Amended 1972 Ky. Acts ch. 13, sec. 2. -- Amended 1970 Ky. Acts ch. 278, sec. 1. -- Created 1960 Ky. Acts ch. 63, sec. 4. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.140.v



~~18A.120 Basis for hiring for classified service—Exception—Credit for sick leave.~~

~~(1) Except as hereinafter provided, all hiring for the classified service shall be on the basis of competitive examinations and certification by the cabinet in accordance with the provisions of KRS 18A.005 to 18A.200.~~

~~(2) As of February 29, 1976, when an entity and its employees, either initially or subsequently, is brought into the state service, all employees of that entity required to be covered under the classified service shall be required to meet the minimum qualifications for the positions to which they are assigned and to satisfactorily complete a probationary period, except that in the discretion of the secretary they shall not be required to take an examination. The secretary shall equitably assign such employees within the salary range of an appropriate pay grade. Upon the recommendation of the appointing authority, the secretary may authorize the credit of the amount of sick leave the employee had prior to being brought into state service. After completion of the initial probationary period employees employed under this statute shall be credited with the amount of service they had with this previous entity for accumulation of annual leave and other purposes of this chapter.~~

~~Effective: July 15, 1998~~

~~History: Amended 1998 Ky. Acts ch. 154, sec. 31, effective July 15, 1998.—Amended 1988 Ky. Acts ch. 247, sec. 2, effective July 15, 1988.—Repealed, reenacted, and amended as KRS 18A.120, 1982 Ky. Acts ch. 448, sec. 24, effective July 15, 1982.—Amended 1976 Ky. Acts ch. 86, sec. 8, effective March 29, 1976.—Amended 1974 Ky. Acts ch. 308, sec. 16.—Amended 1966 Ky. Acts ch. 255, sec. 283.—Created 1960 Ky. Acts ch. 63, sec. 12.~~

~~2016–2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.250.~~

18A.125 Control through payroll certification.

(1) No disbursing or auditing officer of the Commonwealth shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the classified or unclassified service unless the payroll voucher or account of such pay bears the certification of the secretary, or of his authorized agent, that the persons named therein have been appointed and employed in accordance with the provisions of KRS 18A.005 to 18A.2004 and the rules, regulations, and orders thereunder. The secretary may for proper cause or upon order of the board withhold certification from an entire payroll or from any specific item or items thereon. The secretary may, however, provide that certification of payrolls may be made once every six (6) months, and such certification shall remain in effect except in the case of any officer or employee whose status has changed after the last certification of his payroll. In the latter case no voucher for payment of salary to such employee shall be issued or payment of salary made without the further certification of the secretary.

(2) All agencies and employees for which the cabinet administers payroll shall comply with the secretary's payroll administration policies, procedures, and requirements.

~~(23)~~ Any citizen, including public officers, may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of KRS 18A.005 to 18A.2004, or of any rule, regulation or order thereunder. Any sum paid contrary to any provision of KRS 18A.005 to 18A.2004 or of any rule, regulation, or order thereunder may be recovered in an action maintained by any citizen, from any officer who made, approved, or authorized such payment or who signed or countersigned a voucher, payroll check or warrant for such payment, or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the Treasury.

~~(34)~~ Any person appointed or employed in contravention of any provision of KRS 18A.005 to 18A.2004 or of any rule, regulation, or order thereunder, who performs service for which he is not paid, may maintain an action against the officer or officers, employee or employees, who purported so to appoint or employ him, to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No such officer or employee shall be reimbursed by the Commonwealth at any time for any sum paid to such person on account of such services.

~~(45)~~ If the secretary wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain a proceeding in the Circuit Court in the county in which he resides to compel the secretary to certify such payroll voucher or account.

(6) An executive branch agency may not authorize performance of duties or provision of services from a work station or alternate work station outside the Commonwealth of Kentucky without approval of the secretary.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 154, sec. 32, effective July 15, 1998. -- Repealed, reenacted, and amended as KRS 18A.125, 1982 Ky. Acts ch. 448, sec. 25, effective July 15, 1982. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 6, effective January 2, 1978. -- Amended 1974 Ky. Acts ch. 308, sec. 17. - Created 1960 Ky. Acts ch. 63, sec. 13.

2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

Formerly codified as KRS 18.260.

**18A.130 ~~Reemployment~~ Reversion of unclassified career employees, ~~terminated on or after January 1, 1980.~~**

~~(1) A career employee whose employment is terminated on or after January 1, 1980, by lay-off, dismissal, other than for cause, and, in the case of an unclassified management employee, resignation other than resignation in lieu of dismissal for cause, shall, upon his written request, be reemployed or placed on reemployment lists in accordance with this section and KRS 18A.135.~~

~~(2)(1) If the an unclassified career employee has previously attained status in a position in the classified service is dismissed, other than for cause, he shall revert to a position in the at last job classification for which he held status, in the agency from which he was terminated, if a vacancy in that class exists.~~

~~(2) If no such vacancy exists, he shall be considered for reemployment pursuant to KRS 18A.135. in any vacant position for which he is qualified pursuant to the reemployment procedures.~~

~~(3) If the career employee has not previously attained status in the classified service or if he has attained status but no vacancy exists in a position to which subsection (2) of this section applies, the employee shall be placed on reemployment lists for any positions for which he is qualified.~~

**Effective:** July 15, 1982

**History:** Repealed, reenacted, and amended as KRS 18A.130, 1982 Ky. Acts ch. 448, sec. 26, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 5, sec. 2, effective July 15, 1980.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**Formerly codified as** KRS 18.216.

**18A.135 -Reemployment of unclassified career employees.**

~~(1) Any career employee who has been laid off or dismissed, other than for cause, and, in the case of an unclassified management employee, resignation other than resignation in lieu of dismissal for cause, shall automatically be placed on the reemployment list for the class from which he was terminated. If a career employee wishes to be on the reemployment list for other classes of positions for which he is qualified and passes the appropriate selection method, he shall notify the cabinet in writing. Any unclassified career employee with prior classified service who is dismissed, other than for cause, shall, upon request, be placed on the reemployment list for the last job classification for which he or she held status.~~

~~(2) The provisions of this section shall apply for (2) two years from the effective date of the employee's separation from the unclassified service.~~

~~(3) If more than one (1) career employee requests to be placed on the reemployment list for any job classification, the cabinet shall list the names of such career employees in the order of their seniority.~~

~~(4) No vacancy may be filled from a competitive register until all career employees on the reemployment list for that vacancy class of position have been denied or have declined employment ~~in that class~~. An appointing authority may refuse to reemploy a qualified employee on the reemployment list only for cause. The secretary and the employee shall be furnished with a written or electronic statement of the specific reasons for the refusal within ten (10) days following the appointing authority's refusal. The employee may appeal the appointing authority's action to the board within thirty calendar (30) days after receipt of the notification. ~~in accordance with KRS 18A.095 and 18A.100.~~~~

Effective: July 15, 1998 History: Amended 1998 Ky. Acts ch. 154, sec. 33, effective July 15, 1998. -- Repealed, reenacted, and amended as KRS 18A.135, 1982 Ky. Acts ch. 448, sec. 27, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 5, sec. 3, effective July 15, 1980. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.217.

18A.138 Affirmative action plan for the Executive Branch of sState gGovernment.

(1) To ensure equal employment opportunity for all Kentuckians applicants and employees regardless of race, color, religion, national origin, disability, sex, or age, an the affirmative action plan shall be implemented. dated July 1, 1984, confirmed as part of Executive Order 84-549 continued in force by Executive Order 88-100, and incorporated herein by reference, shall be the official affirmative action plan for Kentucky state government. Copies of the plan, as well as the plans developed by individual agencies pursuant to the state plan, shall be maintained on file and made available for inspection in the Office of the Secretary of Personnel.

(2) Every program cabinet, department, and agency of state government shall comply with the provisions of the affirmative action plan.

(3) Equal employment opportunities shall be an integral part of each cabinet, department, and agency program, and any program evaluation shall include an assessment of equal opportunity performance.

(4) The secretary of personnel shall be responsible for the implementation of the plan. In fulfilling his duties, he shall:

(a) Require all cabinets, departments, and agencies of state government to develop programs consistent with the plan;

(b) Provide any technical assistance he may deem appropriate to accomplish the purposes of the plan and ensure that persons protected by antidiscrimination laws are not adversely affected by selection procedures;

(c) Provide, through the Personnel Cabinet, an annual analysis to ensure that persons protected by antidiscrimination laws are not adversely affected by examination and selection procedures;

~~(d) Provide for validation of examination procedures;~~

(de) Provide for procedures to monitor appointments and salary adjustments to ensure that standards are uniformly applied so as to prevent salary disparity;

(ef) Report to the Governor semiannually on actions taken pursuant to the plan; and

(fg) Review the plan on an annual basis and recommend necessary changes in consultation with the appropriate agencies.

(5) The secretary of personnel may also:

(a) Promulgate administrative regulations in accordance with this chapter and KRS Chapter 13A to implement the affirmative action plan;

(b) Implement programs to ensure that reasonable accommodations exist for persons with disabilities to allow them better access to all employment opportunities in state government; and

(c) Appoint an affirmative action advisory committee to assist ~~him~~ in implementation of the affirmative action plan.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 154, sec. 34, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 405, sec. 5, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 309, sec. 2, effective July 13, 1990. -- Created 1988 Ky. Acts ch. 127, sec. 1, effective July 15, 1988.

2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**18A.140 Prohibition against discrimination and political activities.**

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political ~~affiliation, religion, or religious opinions, affiliations,~~ ethnic origin, sex, race or disability. No person over the age of forty (40) shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) No employee in the classified service or member of the board or its executive director or secretary shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service.

(4) No employee in the classified service or member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid partisan public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employees of the classified service may be candidates for and occupy an elected office if the election is on a nonpartisan basis, the officers or employees have complied with the requirements of KRS 61.080, and the duties of the elective office do not interfere with, or create any conflicts of interest with, the state duties of the officers or employees in the classified service. An employee shall give notice to his or her appointing authority of his or her intent to run for elective office upon filing to run for the office.

**Effective:** April 13, 2010

**History:** Amended 2010 Ky. Acts ch. 153, sec. 11, effective April 13, 2010. -- Amended 1998 Ky. Acts ch. 154, sec. 35, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 405, sec. 6, effective July 15, 1994. -- Amended 1986 Ky. Acts ch. 494, sec. 19, effective July 15, 1986. -- Repealed, reenacted, and amended as KRS 18A.140, 1982 Ky. Acts ch. 448, sec. 28, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 132, sec. 5, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 269, sec. 7, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 86, sec. 10, effective March 29, 1976; and ch. 331, sec. 1, effective June 19, 1976. -- Created 1960 Ky. Acts ch. 63, sec. 19.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**Formerly codified as** KRS 18.310.

**Legislative Research Commission Note.** Although this section is included in 1986 Acts ch. 494, sec. 19, the change in this section was deleted by conference committee amendment.



### **18A.145 Other acts prohibited.**

(1) No person shall make or submit any false statement, certificate, ~~mark, rating~~, or report with regard to any ~~test, certification,~~ personnel record, personnel action, evaluation, position description, or appointment made under any provision of KRS 18A.005 to 18A.204 or in any manner commit or attempt to commit any fraud preventing the impartial execution of KRS 18A.005 to 18A.204 and the rules, regulations or orders thereunder.

(2) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

(3) No employee of the cabinet, ~~examiner,~~ or other person shall defeat, deceive, or obstruct any person in his right to ~~examination,~~ eligibility, certification, or appointment under KRS 18A.005 to 18A.204, or furnish to any person any ~~special or secret~~ confidential information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

(4) No person shall make any false statement, record, or report regarding hours, days, or other time worked by any employee. No person shall falsely prepare any payroll document or record relating to the pay for any employee.

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 154, sec. 36, effective July 15, 1998. -- Repealed, reenacted, and amended as KRS 18.145, 1982 Ky. Acts ch. 448, sec. 29, effective July 15, 1982. -- Amended 1976 Ky. Acts ch. 86, sec. 11, effective March 29, 1976. -- Amended 1974 Ky. Acts ch. 308, sec. 20. -- Created 1960 Ky. Acts ch. 63, sec. 20.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**Formerly codified as** KRS 18.320.

### **18A.155 Rules for unclassified employees.**

(1) The secretary shall prepare and submit proposed administrative regulations to the Governor for employees in unclassified positions enumerated in KRS 18A.115(1)(~~c~~), (~~d~~), (~~f~~), (g), (h), (i), (j), (~~k~~), (~~m~~), (~~n~~), (~~q~~), (~~r~~), (~~u~~), (~~v~~), (~~y~~), and (~~z~~), all of whom shall be subject to the KRS Chapter 18A personnel system unless indicated otherwise, and (u). Such administrative regulations shall become effective after approval by the Governor and promulgation in accordance with KRS Chapters 12 and 13A. The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all aforementioned positions in the KRS Chapter 18A unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the Governor, the secretary shall allocate the positions of every employee in the unclassified service to one (1) of the classes of the plan. ~~Any employee affected by the allocation of a position to a class shall, after filing with the secretary a written request for reconsideration thereof in such manner and form as the secretary may prescribe, be given a reasonable opportunity to be heard thereon by the secretary;~~

(b) For a pay plan for all aforementioned employees in the unclassified service, after consultation with appointing authorities and the state budget director, and taking into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere; ~~and~~
3. The state's financial resources; and
4. Any other factors deemed relevant.

Such pay plan shall become effective only after it has been approved by the Governor after submission to him by the secretary. Amendments to the pay plan may be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department or cabinet to a similar position in another department or cabinet involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For ~~annual, sick, and special~~ types of leaves ~~of absence~~, with or without pay, or reduced pay, after approval by the Governor as provided in subsection (1) of this section;

(e) For the development and operation of programs to improve the work effectiveness and morale of employees in the unclassified service, including training, safety, health, wellness, welfare, counseling, recreation, and employee relations; and

(f) For such other rules and administrative regulations not inconsistent with KRS 18A.005 to 18A.2004, as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude those agencies who are not subject to the KRS Chapter 18A personnel system from -the optional use of administrative regulations promulgated under this section ~~on behalf of employees enumerated in KRS 18A.115(1)(a), (b), (d), (e), (p), (u), and (w) and on behalf of members of state boards and commissions who work on a full-time, salaried basis.~~ The optional use of these regulations shall not confer KRS Chapter 18A status on an agency or its employees.

(3) Months of service earned as a contract employee of the Kentucky Department of Education shall be recognized and credited as service credit for calculating years of service in any public agency position held subsequent to the employment by contract. The provisions of this subsection are retroactive for employees hired in a public agency position on or after January 1, 1997.

(4) All Executive Branch agencies with KRS Chapter 18A unclassified employees shall be subject to the Personnel Cabinet's regulations, policies, or procedures that pertain to KRS Chapter 18A unclassified employment.

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 154, sec. 38, effective July 15, 1998; ch. 487, sec. 5, effective July 15, 1998; and ch. 540, sec. 5, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 494, sec. 20, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 52, sec. 2; and repealed, reenacted, and amended as KRS 18A.155, ch. 448, sec. 31, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 269, sec. 5. -- Amended 1976 Ky. Acts ch. 86, sec. 7, effective March 29, 1976. -- Amended 1974 Ky. Acts ch. 162, sec. 7; and ch. 308, sec. 13. -- Created 1960 Ky. Acts ch. 63, sec. 9.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**Formerly codified as** KRS 18.220.

**Legislative Research Commission Note (7/15/98).** This section was amended by 1998 Ky. Acts chs. 154, 487, and 540 which do not appear to be in conflict and have been codified together.

**18A.160 Use of public buildings, property, and facilities.**

~~(1) All office space, property, and equipment including, but not limited to, desks, office supplies, typewriters, machinery, and implements utilized at hearings and in recording and processing transcripts and other work of the board, heretofore used by the board, shall become the property of the board.~~

~~(2) All officers and employees of the Commonwealth and of all its municipalities and political subdivisions shall allow the cabinet and the board the reasonable use of public buildings under their control, and furnish heat, light, and furniture for any examination, hearing, or investigation authorized by KRS 18A.005 to 18A.200. The cabinet and the board, as appropriate, shall pay to a municipality or political subdivision the reasonable cost of any such facilities furnished by it.~~

~~Effective: July 15, 1998~~

~~History: Amended 1998 Ky. Acts ch. 154, sec. 39, effective July 15, 1998. — Repealed, reenacted, and amended as KRS 18A.160, 1982 Ky. Acts ch. 448, sec. 32, effective July 15, 1982. — Amended 1974 Ky. Acts ch. 308, sec. 14. — Created 1960 Ky. Acts ch. 63, sec. 10.~~

~~**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. **Formerly codified as KRS 18.230.**~~

**18A.165 Administration of KRS 18A.005 to 18A.2004.**

All officers and employees of the Commonwealth shall comply with, and aid in all proper ways in carrying out, the provisions of KRS 18A.005 to 18A.2004 and the rules, regulations, and orders of the board thereunder. All officers and employees shall furnish any records or information pertaining to the administration of KRS 18A.005 to 18A.2004 which the secretary or the board may request.

The secretary or the board may require the Attorney General to institute and maintain such legal action as the secretary or the board may consider necessary or appropriate to secure compliance with KRS 18A.005 to 18A.2004 and the rules and orders thereunder.

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 154, sec. 40, effective July 15, 1998; and ch. 487, sec. 6, effective July 15, 1998. -- Repealed, reenacted, and amended as KRS 18A.165, 1982 Ky. Acts ch. 448, sec. 33, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 308, sec. 14. -- Amended 1966 Ky. Acts ch. 255, sec. 23. -- Created 1960 Ky. Acts ch. 63, sec. 11.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**Formerly codified as** KRS 18.240.

**Legislative Research Commission Note (7/15/98).** This section was amended by 1998 Ky. Acts chs. 154 and 487. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 487, which was last enacted by the General Assembly, prevails under KRS 446.250.

**18A.170 Certification of division directors who do not make policy.**

~~It is further provided that the responsible departmental, board, commission or agency head shall at the time at which he elects to come under the provisions of KRS 18A.005 to 18A.200, certify to the board the positions of those division directors or heads under their jurisdiction whose duties are nonpolicy making together with a sufficient statement of their duties to enable the board to determine whether or not, as a matter of fact, such duties are nonpolicy making in their nature. He shall, at any time subsequent to coming under the provisions of KRS 18A.005 to 18A.200 certify to the board additional division directors or heads whose duties are nonpolicy making. At the time of certification notice thereof shall be given to the interested division director or head in the form of a copy of the statement certifying the duties of his office. The board may conduct such hearings as it may deem necessary, and shall conduct hearings pursuant to the administrative provisions of KRS 18A.095 in the event of a difference of opinion between the certifying officer and the interested division director or head, before entering its findings of fact and an order either classifying or denying classification to such position. Either the certifying officer or the division director or head may appeal the findings of fact and the final order of the board by initiating action in the Franklin Circuit Court pursuant to the provisions of KRS 418.040 et seq.~~

**Effective:** July 15, 1982

**History:** Repealed, reenacted, and amended as KRS 18A.170, 1982 Ky. Acts ch. 448, sec. 34, effective July 15, 1982. — Amended 1974 Ky. Acts ch. 308, sec. 8. — Created 1960 Ky. Acts ch. 63, sec. 4(b).

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. **Formerly codified as KRS 18.150.**

**~~18A.175 Evaluation of duties of division directors or heads—Procedure when duties have become policy making.~~**

~~The responsible departmental, board, commission or agency head shall periodically evaluate the duties of those division directors or heads placed under the classified service pursuant to the provisions of KRS 18A.170, and shall determine whether the duties of such directors or heads have become policy making in their nature. If it is determined that the duties of such directors and heads are policy making, the responsible agency head shall certify that fact to the board. At the time of certification, notice thereof shall be given to the interested division director or head in a form of a copy of the statement certifying the policy making duties of his office. The board may conduct such hearings as it may deem necessary, and shall conduct hearings pursuant to the administrative provisions of KRS 18A.095 in the event of a difference of opinion between the certifying officer and the interested division director or head, before entering its findings of fact and an order either removing the position from the classified service or retaining it within the classified service. Either the certifying officer or the division director or head may appeal the findings of fact and the final order of the board by initiating action in the Franklin Circuit Court pursuant to the provisions of KRS Chapter 418.~~

~~**Effective:** July 15, 1982~~

~~**History:** Repealed, reenacted, and amended as KRS 18A.175, 1982 Ky. Acts ch. 448, sec. 35, effective July 15, 1982.— Created 1976 Ky. Acts ch. 6, sec. 3, effective March 3, 1976.~~

~~**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. **Formerly codified as KRS 18.155.**~~

**18A.180 Extension of system to other governmental units.**

~~(1) Subject to the approval of the board, t~~The secretary may enter into agreements with any municipality or other political subdivision of the Commonwealth to furnish services and facilities of the cabinet to the municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the cabinet, under contract, of the reasonable cost of the services and facilities furnished, as determined by the secretary. All municipalities and political subdivisions of the Commonwealth are hereby authorized to enter into these agreements.

~~(2) The secretary may cooperate with the governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of KRS 18A.005 to 18A.200.~~

~~(3) The secretary may, upon the request of the secretary of the Cabinet for Health and Family Services and upon the approval of the board, furnish merit system services to "local" departments of health.~~

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 99, sec. 96, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 154, sec. 41, effective July 15, 1998; and ch. 426, sec. 78, effective July 15, 1998. -- Repealed, reenacted, and amended as KRS 18A.180, 1982 Ky. Acts ch. 448, sec. 36, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 162, sec. 8; and ch. 308, sec. 19. -- Created 1960 Ky. Acts ch. 63, sec. 16.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. **Formerly codified as KRS 18.300.**



**18A.190 Holidays for state personnel -- Military spouses to receive paid deployment and return days off.**

(1) State offices shall be closed and state employees shall be given a paid holiday on the following days:

- (a) The first day of January plus one (1) extra day;
- (b) The third Monday in January;
- (c) Good Friday, ~~one half (1/2) day~~;
- (d) The last Monday in May;
- (e) The nineteenth day of June;
- ~~(e)~~ The fourth day of July;
- ~~(f)~~ The first Monday in September;
- ~~(g)~~ The eleventh day of November;
- ~~(h)~~ Presidential election day as required under KRS 2.190;
- ~~(i)~~ The fourth Thursday in November plus one (1) extra day; and
- ~~(j)~~ The twenty-fifth day of December plus one (1) extra day.

(2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday. When one (1) extra day is mentioned in paragraphs (a), ~~(i) and~~ (j) and (k) of subsection (1), the Governor shall designate the extra day.

(3) Any state employee who is the spouse of a member of the United States Armed Forces, including a member of a state National Guard or a Reserve component on federal active duty, shall receive, at the discretion of the state employee, one (1) day off, with pay, from work when the member is deployed and one (1) day off, with pay, from work when the member returns from deployment.

(4) The holidays set out in this section are in addition to ~~vacation~~ other types of leave and ~~other~~ benefits of state employees.

**Effective:** April 25, 2006

**History:** Amended 2006 Ky. Acts ch. 252, Pt. XXVIII, sec. 8, effective April 25, 2006. -- Amended 1998 Ky. Acts ch. 576, sec. 1, effective July 15, 1998. -- Amended 1990 Ky. Acts ch. 25, sec. 1, effective July 13, 1990. -- Repealed, reenacted, and amended as KRS 18A.190, 1982 Ky. Acts ch. 448, sec. 38, effective July 15, 1982. -- Created 1972 Ky. Acts ch. 289, sec. 1.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, G, 1, (3) at 1071.

**Formerly codified as** KRS 18.350.

**18A.195 Compensatory time -- Payment upon leaving state service.**

(1) A state employee who is authorized to work one (1) or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. Upon the written request of an employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. sec. 201 et seq., an appointing authority may grant compensatory time, in lieu of overtime pay, at the rate of one and one-half (1.5) hours for each hour the employee is authorized to work in excess of forty (40) hours in a work week. An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(2) An employee in a position listed in KRS 18A.115(1)(~~c~~), (d), (e), (f), (g), or (h), ~~(i), or (k)~~ or in an position deemed by the secretary to be policy making or advisory shall not be eligible to receive any level of block payment for compensatory leave hours, except as provided in subsection (3) of this section.

(3) Any employee who leaves state service shall be paid for the balance of unused compensatory time not to exceed two hundred forty (240) hours.

**Effective:** April 13, 2010

**History:** Amended 2010 Ky. Acts ch. 153, sec. 12, effective April 13, 2010. -- Amended 2000 Ky. Acts ch. 495, sec. 4, effective July 14, 2000. -- Amended 1994 Ky. Acts ch. 180, sec. 3, effective July 15, 1994. -- Repealed, reenacted, and amended as KRS 18A.195, 1982 Ky. Acts ch. 448, sec. 39, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 269, sec. 9, effective June 17, 1978. -- Created 1972 Ky. Acts ch. 46, sec. 1.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**Formerly codified as** KRS 18.360.

### **18A.197 Sick-leave sharing program.**

(1) The Commonwealth of Kentucky sick leave sharing program is created. An employee ~~who has accrued a sick leave balance of more than seventy-five (75) hours~~ may request that the appointing authority of the agency for which the employee works makes available for transfer a specified amount of his or her sick leave balance to another named employee authorized to receive leave under subsection (2) of this section. ~~The employee may not request a transfer of an amount of leave that would result in reducing his or her sick leave balance to less than seventy-five (75) hours.~~

(2) An appointing authority, with the approval of the secretary of personnel, may permit an employee of the agency to receive leave under this section if:

(a) The employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition which has caused, or is likely to cause, the employee to go on leave for at least ten (10) consecutive working days;

(b) The employee's need for absence and use of leave are certified by a licensed practicing physician or advanced practice registered nurse;

(c) The employee has exhausted his or her accumulated sick leave, annual leave, and compensatory leave balances; and

(d) The employee has complied with administrative regulations governing the use of sick leave.

(3) The appointing authority, with the approval of the secretary of personnel, shall determine the amount of leave, if any, which an employee within his or her agency may receive under subsection (2) of this section. Transfers of leave shall not exceed the amount requested by the recipient.

(4) Leave may be transferred from an employee of one (1) agency to an employee within the same agency. With the approval of the secretary of personnel and of the appointing authorities of both agencies, leave may be transferred from an employee of one (1) agency to an employee of another state agency. The Personnel Cabinet shall maintain records of leave transferred between employees and the utilization of transferred leave.

(5) While an employee is on leave transferred under this section, he or she shall be deemed a state employee and shall receive the same treatment with respect to salary, wages and employee benefits.

(6) All salary and wage payments made to an employee while on leave transferred under this section shall be made by the agency employing the person receiving the leave.

(7) Any leave transferred under this section which remains unused shall be returned to the employees who transferred the leave when the appointing authority finds that the leave is no longer needed and will not be needed at a future time in connection with the illness or injury for which the leave was transferred to an employee in his agency.

(8) No employee shall directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the employee's right to voluntarily contribute leave when authorized under this section. For the purpose of this subsection, "intimidate, threaten, or coerce" shall include, without being limited to, the promise to confer or the conferring of any benefit or effecting or threatening to effect any reprisal.

(9) The secretary of the Personnel Cabinet shall promulgate procedural administrative regulations to implement the provisions of this section.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 85, sec. 68, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 97, sec. 3, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 154, sec. 42, effective July 15, 1998. -- Created 1990 Ky. Acts ch. 483, sec. 2, effective July 13, 1990.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059.

**18A.200 Per diem salaries for state officers or employees serving on boards or commissions prohibited during regular working hours -- Reimbursement of expenses authorized.**

(1) No state officer or employee who is elected, appointed, or~~who is~~ required by statute or regulation to serve on any board, commission or other body in an official capacity shall receive a per diem salary for the attendance of meetings or performance of services during regular working hours.

(2) Any state officer or employee who is required by statute or regulation or who is elected or appointed to serve on any board, commission or other body in an official capacity shall receive reimbursement for actual and necessary expenses in accordance with state regulations and standards.

Effective: July 15, 1982 History: Repealed, reenacted, and amended as KRS 18A.200, 1982 Ky. Acts ch. 448, sec. 40, effective July 15, 1982. -- Created 1978 Ky. Acts ch. 154, sec. 4, effective June 17, 1978. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.370.

**~~18A.201 Transportation Engineering Assistant I experience requirements.~~**

~~Beginning on July 12, 2006, the requirement of two (2) years of experience related to one (1) or more transportation engineering programs for the job classification of Transportation Engineering Assistant I shall not apply as an experience requirement for the classification. Any applicant who has obtained a high school diploma or received a High School Equivalency Diploma shall be deemed to have met the educational requirements necessary for the Transportation Engineering Assistant I classification and shall be allowed to take the relevant written examination for the classification.~~

~~**Effective:** June 29, 2017~~

~~**History:** Amended 2017 Ky. Acts ch. 63, sec. 6, effective June 29, 2017. — Created 2006 Ky. Acts ch. 131, sec. 1, effective July 12, 2006.~~

### **18A.203 Annual-leave sharing program.**

(1) The Commonwealth of Kentucky annual leave sharing program is created. An employee ~~who has accrued an annual leave balance of more than seventy-five (75) hours~~ may request that the appointing authority of the agency for which the employee works makes available for transfer a specified amount of his or her annual leave balance to another named employee authorized to receive leave under subsection (2) of this section. ~~The employee may not request a transfer of an amount of leave that would result in reducing his or her annual leave balance to less than seventy five (75) hours.~~

(2) An appointing authority, with the approval of the secretary of personnel, may permit an employee of the agency to receive leave under this section if:

(a) The employee suffers from a catastrophic loss to his or her personal property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to go on leave for at least ten (10) consecutive working days;

(b) The employee has exhausted his or her accumulated annual leave and compensatory leave balances; and

(c) The employee has complied with administrative regulations governing the use of annual leave.

(3) The appointing authority, with the approval of the secretary of personnel, shall determine the amount of leave, if any, that an employee within his or her agency may receive under subsection (2) of this section. Transfers of leave shall not exceed the amount requested by the recipient.

(4) Leave may be transferred from an employee of one (1) agency to an employee within the same agency. With the approval of the secretary of personnel and of the appointing authorities of both agencies, leave may be transferred from an employee of one (1) agency to an employee of another state agency. The Personnel Cabinet shall maintain records of leave transferred between employees and the utilization of transferred leave.

(5) While an employee is on leave transferred under this section, he or she shall be deemed a state employee and shall receive the same treatment with respect to salary, wages, and employee benefits.

(6) All salary and wage payments made to an employee while on leave transferred under this section shall be made by the agency employing the person receiving the leave.

(7) Any leave transferred under this section that remains unused shall be returned to the employees who transferred the leave when the appointing authority finds that the leave is no longer needed and will not be needed at a future time in connection with the catastrophic loss for which the leave was transferred to an employee in his or her agency.

(8) No employee shall directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the employee's right to voluntarily contribute leave when authorized under this section. For the purpose of this subsection, "intimidate, threaten, or coerce" shall include, without being limited to, the promise to confer or the conferring of any benefit or effecting or threatening to effect any reprisal.

(9) The secretary of the Personnel Cabinet shall promulgate procedural administrative regulations to implement the provisions of this section.

**Effective:** July 14, 2000

**History:** Created 2000 Ky. Acts ch. 97, sec. 1, effective July 14, 2000.

**18A.990 Penalties.**

(1) Any person who willfully violates any provision of KRS 18A.005 to 18A.2004 or of the rules shall be guilty of a misdemeanor, and shall upon conviction be punished therefor with a sentence of from thirty (30) days to a maximum of six (6) months in jail.

(2) Any person who is convicted of a misdemeanor under KRS 18A.005 to 18A.2004 shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employee of the Commonwealth, shall forfeit his office or position.

(3) Any officer or employee of the classified service who willfully violates any of the provisions of KRS 18A.140 shall forfeit his office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service. Violation of KRS 18A.140 shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail.

Effective: July 15, 1982

History: Repealed, reenacted, and amended as KRS 18A. 990, 1982 Ky. Acts ch. 448, sec. 56, effective July 15, 1982. -- Created 1960 Ky. Acts ch. 63, secs. 19 and 23.

Formerly codified as KRS 18.990.

**48.130 Budget reduction plan for revenue shortfall of five percent or less to be included in each enacted branch budget bill -- Shortfalls over five percent require legislative action.**

(1) The General Assembly shall include in each enacted branch budget bill a budget reduction plan for a revenue shortfall in the general fund or road fund of five percent (5%) or less. The budget reduction plan shall direct how budget reductions shall be implemented if there is a revenue shortfall of five percent (5%) or less.

(2) A lay-off of state employees in the executive branch under the budget reduction plan enacted by the General Assembly shall comply with the provisions of KRS ~~18A.113~~18A.1132.

(3) Any revenue shortfall in the general fund or road fund of greater than five percent (5%) shall require action by the General Assembly.

(4) Upon the issuance of an official revenue estimate by the consensus forecasting group reflecting a revenue shortfall in the general fund or road fund, or upon the existence of an actual revenue shortfall in the general fund or road fund at the close of a fiscal year as determined by the Office of State Budget Director, the Office of State Budget Director shall notify all branches of government. If the revenue shortfall is five percent (5%) or less, the following actions shall be taken:

(a) The unappropriated balance of funds in the surplus accounts of the general fund or road fund shall first be used to meet the shortfalls in those respective funds; and

(b) If the amounts described in paragraph (a) of this subsection are insufficient to address the revenue shortfall, the enacted budget reduction plan included in each branch budget bill shall be implemented.

(5) The budget reduction plan for each branch of government may provide that the annual increment granted state employees under KRS 18A.355 shall be reduced as provided by KRS 18A.355. Any reduction of the annual increment shall be uniform for all employees.

(6) No budget reduction action shall be taken by any branch head in excess of the actual or projected deficit.

(7) If general fund or road fund tax receipts increase over the revenues estimated in the official revenue estimate that resulted in reductions, then services may be restored in the reverse order of the reduced services.

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 78, sec. 6, effective June 25, 2009. -- Amended 2000 Ky. Acts ch. 46, sec. 17, effective July 14, 2000. -- Amended 1994 Ky. Acts ch. 387, sec. 2, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 507, sec. 9, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 273, sec. 5, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 494, sec. 23, effective July 15, 1986. -- Created 1982 Ky. Acts ch. 450, sec. 13, effective July 1, 1983.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. VI at 1137.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. VII, (1) at 1138.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. VIII at 1138.



~~164.357 Governmental Services Center at Kentucky State University— Authority to direct— Duties and responsibilities of center— Executive director of authority. (1) There is established as a separate administrative body of state government the Governmental Services Center at Kentucky State University which shall be attached to the Personnel Cabinet for administrative purposes. The center shall be governed by the Governmental Services Center Authority. (2) The authority shall consist of the president of Kentucky State University, who shall be chairman, the secretary of the Finance and Administration Cabinet, the secretary of the Personnel Cabinet, two (2) members appointed by the Governor, each of whom shall serve as ex officio voting members of the authority, and two (2) other voting members to be appointed by the chairman of the authority. Appointed members shall be citizens and residents of the Commonwealth of Kentucky. The initial term of one (1) of the members appointed by the chairman shall be for two (2) years, and the initial term of the other appointed member shall be for a term of four (4) years; thereafter, all appointments shall be for terms of four (4) years, but appointed members shall be removable at will by the chairman of the authority. (3) The Governmental Services Center at Kentucky State University, under direction of the authority, shall be responsible for the development, coordination, content, approval, and implementation of all training, employee development, and related programs conducted for and on behalf of all program cabinets, departments, administrative bodies, and program managers of the state government. The center shall conduct, or cause to be conducted, ongoing management training programs for all program managers and supervisors within the executive branch of state government. The organizational units whose supervisors and managers received training at the center shall share the cost of the training on a pro rata basis. The center shall encourage the enrollment of state employees in academic courses and programs at Kentucky State University. If desired academic courses are not available at the university, and cannot feasibly be developed by the university, other universities and community colleges within the Commonwealth shall be utilized. The authority shall determine the appropriateness of all such programs. (4) The authority may employ an executive director and other employees necessary to perform the functions of the center in accordance with the provisions of KRS Chapter 18A. The executive director or any staff member of the center may hold concurrently with their employment by the center, and subject to the provisions of KRS 164.360 and 164.365, faculty appointments of appropriate rank at Kentucky State University. (5) Members of the authority who are not either state or university employees shall be reimbursed for their actual expenses in attending meetings for the authority. Effective: June 20, 2005 History: Amended 2005 Ky. Acts ch. 85, sec. 599, effective June 20, 2005. --- Amended 1998 Ky. Acts ch. 154, sec. 81, effective July 15, 1998. --- Created 1984 Ky. Acts ch. 346, sec. 2, effective July 13, 1984.~~

**~~61.379 Rules and regulations—Appeals from failure to restore or discharge—Procedure.~~**

~~The board shall adopt regulations to carry out the provisions of KRS 61.371 to 61.379 in accordance with KRS Chapter 13A. Any public employee who is not restored to a position, or who is discharged without cause within one (1) year after restoration, may appeal to the board for review. Upon review, both the employee and the employer may be represented by counsel. Technical rules as to admission of evidence shall not apply. If the board finds that the employer has violated the provisions of KRS 61.371 to 61.379 or regulations promulgated thereunder, it shall direct the employer to comply with the provisions and to compensate the employee for loss of pay suffered by reason of the violation; except any amount received by the employee during the period from his discharge to reinstatement from other public employment, unemployment compensation, or readjustment allowances from a public agency shall be deducted from such compensation.~~

344.025 Construction of KRS Chapter 18A.

No provision in KRS Chapter 18A shall be construed to preclude any [KRS Chapter 18A](#) classified ~~or unclassified state~~ employee from appealing to the personnel board any action alleged to be in violation of laws prohibiting discrimination based on a person's status as a qualified individual with a disability, sex, age, religion, or race or national origin, in accordance with this chapter.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 378, sec. 2, effective July 15, 1994. – Amended 1992 Ky. Acts ch. 282, sec. 3, effective July 14, 1992. -- Created 1986 Ky. Acts ch. 494, sec. 27, effective July 15, 1986.