

156.480 Employees of department or school districts with decision-making authority prohibited from supplying goods or services for which school funds are expended – Penalties.

- (1) No commissioner, associate commissioner, deputy commissioner, director, manager, purchasing agent, or other employee of the Department of Education with decision-making authority over the financial position of a school, school district, or school system shall have any pecuniary interest in the school, school district, or school system, either directly or indirectly, in an amount exceeding twenty-five dollars (\$25) per year, either at the time of or after his appointment to office, in supplying any goods, services, property, merchandise, or services, except personal services that are in addition to those required by contract for employment, of any nature whatsoever for which school funds are expended. If any person specified in this subsection receives, directly or indirectly, any gift, reward, or promise of reward for his influence in recommending or procuring the use of any goods, services, property, or merchandise of any kind whatsoever for which school funds are expended, he shall upon conviction be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), and his office or appointment shall without further action be vacant.
- (2) No employee of any county or independent school district with decision-making authority over the financial position of the school district shall have any pecuniary interest, either directly or indirectly, in an amount exceeding twenty-five dollars (\$25) per year, either at the time of or after his appointment to office, in supplying any goods, services, property, merchandise, or services, except personal services that are in addition to those required by contract for employment, of any nature whatsoever for which school funds are expended. If any person specified in this subsection receives, directly or indirectly, any gift, reward, or promise of reward for his influence in recommending or procuring the use of any goods, services, property, or merchandise of any kind whatsoever for which school funds are expended, he shall upon conviction be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), and his office or appointment shall without further action be vacant.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 123, sec. 2, effective July 15, 1994. -- Repealed and reenacted 1990 Ky. Acts ch. 476, Pt. V, sec. 370, effective July 13, 1990. -- Amended 1966 Ky. Acts ch. 89, sec. 1. -- Created 1956 (1st Extra. Sess.) Ky. Acts ch. 7, Art. II, sec. 7.

160.380 School district personnel actions – Restrictions on appointment of relatives, violent offenders, and persons convicted of sex crimes – Restriction on assignment to alternative education program as disciplinary action – National and state criminal history background checks and clear CA/N checks – Requirements for drivers of non-school bus passenger vehicles – Probationary status – Termination on basis of criminal record – Fingerprint card – Application forms – Employees charged with felony offenses – Notification by employee found to have abused or neglected a child.

(1) As used in this section:

- (a) "Administrative finding of child abuse or neglect" means a substantiated finding of child abuse or neglect issued by the Cabinet for Health and Family Services that is:
 - 1. Not appealed through an administrative hearing conducted in accordance with KRS Chapter 13B;
 - 2. Upheld at an administrative hearing conducted in accordance with KRS Chapter 13B and not appealed to a Circuit Court; or
 - 3. Upheld by a Circuit Court in an appeal of the results of an administrative hearing conducted in accordance with KRS Chapter 13B;
- (b) "Alternative education program" means a program that exists to meet the needs of students that cannot be addressed in a traditional classroom setting but through the assignment of students to alternative classrooms, centers, or campuses that are designed to remediate academic performance, improve behavior, or provide an enhanced learning experience. Alternative education programs do not include career or technical centers or departments;
- (c) "Clear CA/N check" means a letter from the Cabinet for Health and Family Services indicating that there are no administrative findings of child abuse or neglect relating to a specific individual;
- (d) "Relative" means father, mother, brother, sister, husband, wife, son and daughter; and
- (e) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) Except as provided in KRS 160.346, the school district personnel actions identified in this section shall be carried out as follows:

- (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law

and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district;

- (b) When a vacancy occurs in a local school district, the superintendent shall submit the job posting to the statewide job posting system described in KRS 160.152 fifteen (15) days before the position shall be filled. The local school district shall post position openings in the local board office for public viewing;
 - (c) When a vacancy needs to be filled in less than fifteen (15) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer outside of the process established in KRS 156.161. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days; and
 - (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.
- (3) Restrictions on employment of relatives shall be as follows:
- (a) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office and who is qualified for the position the employee holds. A superintendent's spouse who has previously been employed in a school system may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection;
 - (b) No superintendent shall employ a relative of a school board member of the district;
 - (c) No principal's relative shall be employed in the principal's school; and
 - (d) A relative that is ineligible for employment under paragraph (a), (b), or (c) of this subsection may be employed as a substitute for a certified or classified employee if the relative is not:
 - 1. A regular full-time or part-time employee of the district;
 - 2. Accruing continuing contract status or any other right to continuous

- employment;
3. Receiving fringe benefits other than those provided other substitutes; or
 4. Receiving preference in employment or assignment over other substitutes.
- (4) No superintendent shall assign a certified or classified staff person to an alternative education program as part of any disciplinary action taken pursuant to KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to the local district evaluation plan.
- (5) No superintendent shall employ in any position in the district any person who:
- (a) Has been convicted of an offense that would classify a person as a violent offender under KRS 439.3401;
 - (b) Has been convicted of a sex crime as defined by KRS 17.500 or a misdemeanor offense under KRS Chapter 510;
 - (c) Is required to register as a sex offender under KRS 17.500 to 17.580; or
 - (d) Has an administrative finding of child abuse or neglect in records maintained by the Cabinet for Health and Family Services.
- (6) Requirements for background checks shall be as follows:
- (a) A superintendent shall require the following individuals to submit to a national and state criminal background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a clear CA/N check, provided by the individual:
 1. Each new certified or classified hire;
 2. A nonfaculty coach or nonfaculty assistant as defined under KRS 161.185;
 3. A student teacher;
 4. A school-based decision making council parent member; and
 5. Any adult who is permitted access to school grounds on a regularly scheduled and continuing basis pursuant to a written agreement for the purpose of providing services directly to a student or students as part of a school-sponsored program or activity;
 - (b)
 1. The requirements of paragraph (a) of this subsection shall not apply to:
 - a. Classified and certified individuals employed by the school district prior to June 27, 2019;
 - b. Certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check and who have a clear CA/N check for the previous employment; or
 - c. Student teachers who have submitted to and provide a copy of a national and state criminal background check by the Department of Kentucky State Police and the Federal Bureau of Investigation through an accredited teacher education institution in which the

160.431 School finance officer – Certification requirements – Continuing education – Financial reports.

- (1) The local district superintendent shall appoint a finance officer who shall be responsible for the cash, investment, and financial management of the school district.
- (2)
 - (a) A person initially employed as a school finance officer on or after July 1, 2015, shall obtain certification from the Department of Education prior to holding the position and entering the duties of the position of school finance officer.
 - (b) The Kentucky Board of Education shall promulgate administrative regulations to prescribe the criteria and procedures to be used in the certification process for a school finance officer.
 - (c) The administrative regulations promulgated under this subsection shall specify:
 1. The initial qualification requirements for school finance officer certification;
 2. The certification application and appeal process; and
 3. The certification renewal process.
- (3) The school finance officer shall be required to complete forty-two (42) hours of continuing education every two (2) years from a provider approved by the Department of Education. The Kentucky Board of Education shall promulgate administrative regulations to identify and prescribe the criteria for fulfilling the requirements of this subsection. The administrative regulations shall specify:
 - (a) The topics of continuing education;
 - (b) Qualifications for continuing education providers;
 - (c) Consequences for failure to meet the continuing education requirement; and
 - (d) Requirements for reinstatement of school finance officer certification.
- (4)
 - (a) The finance officer shall present a detailed monthly financial report for board approval to include the previous month's revenues and expenditures of the district. The monthly report shall be posted on the district's Web site for a minimum of six (6) months after its approval.
 - (b) Within six (6) months following the end of each fiscal year, the finance officer shall submit to the Kentucky Department of Education a detailed annual financial report to include the district's total assets, liabilities, revenues, and expenditures. The annual report shall be posted on the district's Web site and department's Web site for a minimum of two (2) years.
 - (c)
 1. The Department of Education shall review each district's annual financial report and shall provide, within two (2) months of receipt, the local board of education a written report indicating the financial status of the district. The department's written report shall be posted on the department's Web site and the district's Web site for a minimum of two (2) years.

2. The commissioner of education shall annually present to the Interim Joint Committee on Education a copy of the department's written report for each district.
- (d) Nothing in this subsection shall lessen the obligation of a school district to publish its financial statements in accordance with KRS 160.463.

Effective: April 27, 2018

History: Amended 2018 Ky. Acts ch. 171, sec. 7, effective April 14, 2018; and ch. 207, sec. 7, effective April 27, 2018. — Amended 2014 Ky. Acts ch. 136, sec. 2, effective July 15, 2014. — Created 2000 Ky. Acts ch. 389, sec. 1, effective July 14, 2000.

Legislative Research Commission Note (4/27/2018). This statute was amended by 2018 Ky. Acts chs. 171 and 207, which do not appear to be in conflict and have been codified together.

161.011 Definitions of "classified employee" and "seniority" – Job classifications and minimum qualifications – Requirement of written contracts and written personnel policies – Reduction in force – Registry of vacant classified employee positions and training – Review of local board policies by Department of Education.

- (1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his or her position as provided in KRS 161.020.
- (b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.
- (2) The commissioner of education shall establish by January 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he or she holds the qualifications for the position as established by the commissioner of education.
- (3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he or she holds at least a high school diploma or high school certificate of completion or High School Equivalency Diploma, or is provided an opportunity by the school district upon employment to obtain a High School Equivalency Diploma at no cost to the employee. Licenses or credentials issued by a government entity that require specialized skill or training may also substitute for this requirement.
- (4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a High School Equivalency Diploma to enroll in a program to obtain a High School Equivalency Diploma.
- (5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:
 - (a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than May 15, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.
 - (b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than May 15, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for

nonrenewal.

- (6) Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.
- (7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.
- (8) The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.
 - (a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.
 - (b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.
 - (c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.
- (9) Local school boards shall develop and provide to all classified employees written policies which shall include but not be limited to:
 - (a) Terms and conditions of employment;
 - (b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and
 - (c) Discipline guidelines and procedures that satisfy due process requirements.
- (10) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include but not be limited to suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR). If suicide prevention training is offered it may be accomplished through self-study review of suicide prevention materials.
- (11) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Effective: March 22, 2023

History: Amended 2023 Ky. Acts ch. 68, sec. 1, effective March 22, 2023. -- Amended 2022 Ky. Acts ch. 236, sec. 77, effective July 1, 2022. -- Amended 2019 Ky. Acts

161.120 Disciplinary actions relating to certificates — Complaint review process — Superintendent report of school employee whose contract is terminated or not reviewed — Hearing — Appeals.

(1) Except as described in KRS 161.795, the Education Professional Standards Board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of those actions regarding any certificate issued under KRS 161.010 to 161.100, or any certificate or license issued under any previous law to superintendents, principals, teachers, substitute teachers, interns, supervisors, directors of pupil personnel, or other administrative, supervisory, or instructional employees for the following reasons:

(a) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, notwithstanding an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of the plea, one (1) of the following:

1. A felony;
2. A misdemeanor under KRS Chapter 218A, 508, 509, 510, 522, 525, 529, 530, or 531; or
3. A misdemeanor involving a student or minor.

A certified copy of the conviction or plea shall be conclusive evidence of the conviction or plea;

(b) Having sexual contact as defined in KRS 510.010(7) with a student or minor. Conviction in a criminal proceeding shall not be a requirement for disciplinary action;

(c) Committing any act that constitutes fraudulent, corrupt, dishonest, or immoral conduct. If the act constitutes a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action;

(d) Demonstrating willful or careless disregard for the health, welfare, or safety of others;

(e) Physical or mental incapacity that prevents the certificate holder from performing duties with reasonable skill, competence, or safety;

(f) Possessing, using, or being under the influence of alcohol, which impairs the performance of duties;

(g) Unlawfully possessing or unlawfully using a drug during the performance of duties;

(h) Incompetency or neglect of duty;

(i) Making, or causing to be made, any false or misleading statement or concealing a material fact in obtaining issuance or renewal of any certificate;

(j) Failing to report as required by subsection (3) of this section;

(k) Failing to comply with an order of the Education Professional Standards Board;

(l) Violating any state statute relating to schools or the teaching profession;

- (m) Violating the professional code of ethics for Kentucky school certified personnel established by the Education Professional Standards Board through the promulgation of administrative regulation;
 - (n) Violating any administrative regulation promulgated by the Education Professional Standards Board or the Kentucky Board of Education; or
 - (o) Receiving disciplinary action or having the issuance of a certificate denied or restricted by another jurisdiction on grounds that constitute a violation of this subsection.
- (2) The Education Professional Standards Board shall respond to complaints against a certificate holder by the following process:
- (a)
 - 1. Except as provided in subparagraph 2. of this paragraph, within thirty (30) calendar days of the receipt of a completed complaint, board staff shall conduct an initial review to determine whether there is sufficient evidence that a violation may have occurred and shall provide notice of the initial determination to the certificate holder within seven (7) business days that shall include the complete copy of the report and all underlying relevant documents and records. If the complaint alleges unauthorized electronic communication as defined in KRS 160.145, sexual contact, or other sexual misconduct, the identity of a complainant that is not the superintendent and any identifying information of the minor involved in the complaint shall remain confidential.
 - 2. When a complaint alleges unauthorized electronic communication, as defined in KRS 160.145, sexual contact, or other sexual misconduct, the board staff shall have one hundred twenty (120) days to conduct the initial review required by subparagraph 1. of this paragraph;
 - (b) Upon receipt of the notice, the certificate holder shall have thirty (30) calendar days to respond or provide a rebuttal to any complaint that was determined to contain sufficient evidence that a violation may have occurred. The response period shall be extended an additional thirty (30) calendar days upon the certificate holder's written request submitted to the board;
 - (c) Within ten (10) business days of the receipt of the certificate holder's response or the end of the response period established in paragraph (b) of this subsection, board staff shall conduct another review of the complaint to determine if sufficient evidence exists to support a violation. If the board staff determines that the evidence is:
 - 1. Insufficient, then the board staff shall recommend dismissal and shall notify the certificate holder and the complainant of the recommendation within seven (7) business days of the determination; or
 - 2. Sufficient, then the board staff shall have seven (7) business days to notify the certificate holder and the complainant of the determination. Notice to the complainant shall only state that further proceedings will occur;
 - (d) Upon a determination that sufficient evidence exists to support a possible violation, within the notice required under paragraph (c)2. of this subsection,

board staff shall initiate an in-person or virtual conference with the certificate holder to share information and to determine if an agreed resolution can be recommended to the board concerning the alleged violation. The conference shall be scheduled within thirty (30) calendar days of the determination. The certificate holder may decline the conference. If the conference does not occur due to the certificate holder's failure to respond within the thirty (30) calendar days, the required conference shall be considered waived. The certificate holder may have an attorney present at the conference;

- (e) Upon the conclusion of the thirty (30) calendar days conference period, the board shall act on the complaint within thirty (30) calendar days. If the board fails to act on the complaint within the thirty (30) calendar days, then the complaint shall be considered dismissed. The board shall consider the entirety of the complaint with any associated response or recommended agreed resolution to determine:
 - 1. Dismissal, conditional dismissal upon completion of training, admonishment, further investigation, or initiation of a hearing;
 - 2. Approval of the recommended agreed resolution; or
 - 3. A deferral if:
 - a. The content of the complaint is subject to ongoing:
 - i. Criminal investigation or proceedings;
 - ii. Child abuse, dependency, or neglect investigation by an authorized state agency; or
 - iii. Teacher tribunal process as provided in KRS 161.790; or
 - b. The deferral is agreed to by the certificate holder; and
 - (f) The provision of a confirmation of receipt from the board to the certificate holder whenever the certificate holder submits a response or correspondence to the board.
- (3) (a) The superintendent of each local school district shall report in writing to the Education Professional Standards Board the name, address, phone number, Social Security number, and position name of any certified school employee in the employee's district whose contract is terminated or not renewed, for cause except failure to meet local standards for quality of teaching performance prior to the employee gaining tenure; who resigns from, or otherwise leaves, a position under threat of contract termination, or nonrenewal, for cause; who is convicted in a criminal prosecution; or who otherwise may have engaged in any actions or conduct while employed in the school district that might reasonably be expected to warrant consideration for action against the certificate under subsection (1) of this section. The duty to report shall exist without regard to any disciplinary action, or lack thereof, by the superintendent, and the required report shall be submitted within thirty (30) calendar days of the event giving rise to the duty to report.
- (b) The district superintendent shall inform the Education Professional Standards Board in writing of the full facts and circumstances leading to the contract termination or nonrenewal, resignation, or other absence, conviction, or

otherwise reported actions or conduct of the certified employee, that may warrant action against the certificate under subsection (1) of this section, and shall forward copies of all relevant documents and records in his or her possession.

- (c) The Education Professional Standards Board shall provide the superintendent confirmation of receipt of any report submitted by the superintendent within seven (7) business days and shall provide the superintendent with notice of:
 - 1. Whether or not board staff determine that there is sufficient evidence in the report that a violation may have occurred; and
 - 2. Any board action taken against the certificate holder who is the subject of the report.
 - (d) The Education Professional Standards Board may consider reports and information received from other sources.
 - (e) The certified school employee shall be given a copy of any report provided to the Education Professional Standards Board by the district superintendent or other sources. The employee shall have the right to file a written rebuttal pursuant to subsection (2) of this section to the report which shall be placed in the official file with the report.
- (4) A finding or action by a school superintendent or tribunal does not create a presumption of a violation or lack of a violation of subsection (1) of this section.
 - (5) The board may issue a written admonishment to the certificate holder if the board determines, based on the evidence, that a violation has occurred that is not of a serious nature. A copy of the written admonishment shall be placed in the official file of the certificate holder. The certificate holder may respond in writing to the admonishment within thirty (30) calendar days of receipt and have that response placed in his or her official certification file. Alternatively, the certificate holder may file a request for a hearing with the board within thirty (30) calendar days of receipt of the admonishment. Upon receipt of a request for a hearing, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B within thirty (30) calendar days of receipt of the request.
 - (6) (a) In accordance with the timeline specified in this section, the Education Professional Standards Board shall schedule and conduct a hearing in accordance with KRS Chapter 13B:
 - 1. Upon determining that a complaint warrants possible revoking, suspending, refusing to renew, imposing probationary or supervisory conditions upon, issuing a written reprimand, or any combination of these actions regarding any certificate;
 - 2. After denying an application for a certificate, upon written request filed within thirty (30) calendar days of receipt of the letter advising of the denial; or
 - 3. After issuing a written admonishment, upon written request for a hearing filed within thirty (30) calendar days of receipt of the written admonishment.

- (b) If after the hearing required under paragraph (a) of this subsection is scheduled and the certificate holder or applicant believes the hearing is not timely, the certificate holder or applicant may submit a request for an expedited hearing, and the hearing shall be conducted within sixty (60) calendar days of the request.
 - (c) Upon request, a hearing may be public or private at the discretion of the certified employee or applicant.
 - (d) The hearing shall be conducted before a hearing officer secured by the board pursuant to KRS 13B.030 and the board may:
 - 1. Employ hearing officers;
 - 2. Contract with another agency for hearing officers;
 - 3. Contract with private attorneys through personal service contracts; or
 - 4. Secure a hearing officer from the Attorney General's office.
 - (e) The hearing shall afford the certificate holder all the rights secured under KRS Chapter 13B.
- (7) The Education Professional Standards Board or its chair may take emergency action pursuant to KRS 13B.125. Emergency action shall not affect a certificate holder's contract or tenure rights in the school district.
 - (8) If the Education Professional Standards Board substantiates that sexual contact occurred between a certified employee and a student or minor, the employee's certificate may be revoked or suspended with mandatory treatment of the employee as prescribed by the Education Professional Standards Board. The Education Professional Standards Board may require the employee to pay a specified amount for mental health services for the student or minor which are needed as a result of the sexual contact.
 - (9) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the certificate holder.
 - (10) The board may reconsider, modify, or reverse its decision on any disciplinary action.
 - (11) Suspension of a certificate shall be for a specified period of time, not to exceed two (2) years.
 - (a) At the conclusion of the specified period, upon demonstration of compliance with any educational requirements and the terms set forth in the agreed order, the certificate shall be reactivated.
 - (b) A suspended certificate is subject to expiration and termination.
 - (12) Revocation of a certificate is a permanent forfeiture. The board shall establish the minimum period of time before an applicant can apply for a new certificate.
 - (a) At the conclusion of the specified period, and upon demonstration of compliance with any educational requirements and the terms set forth in the agreed order, the applicant shall bear the burden of proof to show that he or she is again fit for practice.
 - (b) The board shall have discretion to impose conditions that it deems reasonably

appropriate to ensure the applicant's fitness and the protection of public safety. Any conditions imposed by the board shall address or apply to only that time period after the revocation of the certificate.

- (13) An appeal from any final order of the Education Professional Standards Board shall be filed in Franklin Circuit Court or the Circuit Court of the county in which the certificate holder was employed when the incident occurred in accordance with KRS Chapter 13B which provides that all final orders of an agency shall be subject to judicial review.

Effective: June 27, 2025

History: Amended 2025 Ky. Acts ch. 149, sec. 2, effective June 27, 2025. -- Amended 2024 Ky. Acts ch. 209, sec. 1, effective July 15, 2024. -- Amended 2000 Ky. Acts ch. 269, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 362, sec. 5, effective July 15, 1998; and ch. 465, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 54, effective July 15, 1996; ch. 343, sec. 7, effective July 15, 1996; and ch. 362, sec. 6, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 265, sec. 2, effective July 15, 1994; and ch. 470, sec. 2, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 182, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 476, Pt. II, sec. 64, effective July 13, 1990. -- Amended 1980 Ky. Acts ch. 188, sec. 119, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 56, sec. 2, effective June 17, 1978; and ch. 155, sec. 82, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4502-9.

Legislative Research Commission Note (7/15/96). This section was amended by 1996 Ky. Acts chs. 318 and 343. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 343, which was last enacted by the General Assembly, prevails under KRS 446.250.

Legislative Research Commission Note (7/15/94). This statute was amended by 1994 Ky. Acts chs. 265 and 470, which were companion bills and are substantively identical. These Acts have been codified together. For the few minor variations between the Acts, Acts ch. 470 prevails under KRS 446.250, as the Act which passed the General Assembly last.

161.1211 Classification of teachers.

- (1) The Education Professional Standards Board shall rank teachers as follows:
 - (a) Rank I. Those holding regular certificates who have met the requirements for Rank II and have additionally earned:
 1. A master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education;
 2. Initial certification of the National Board for Professional Teaching Standards; or
 3. Thirty (30) additional semester hours of approved graduate work or equivalent continuing education.

The board shall not allow a teacher who qualified for Rank I status on the basis of his or her national board certification to maintain that classification if the national board certificate is revoked for misconduct or voided for other reasons.
 - (b) Rank II. Those holding regular certificates and who:
 1. Have a master's degree in a subject field approved by the Education Professional Standards Board;
 2. Have earned initial certification of the National Board for Professional Teaching Standards; or
 3. Have completed equivalent continuing education.

The board shall not allow a teacher who qualified for Rank II status on the basis of his or her national board certification to maintain that classification if the national board certificate is revoked for misconduct or voided for other reasons.
 - (c) Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.
 - (d) Rank IV. Those holding emergency certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.
 - (e) Rank V. Those holding emergency certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.
- (2) In determining ranks, the Education Professional Standards Board shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The board, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.
- (3) For purposes of the state salary schedule only as referenced in KRS 158.070, rank shall be determined on September 15 of each year.
- (4) Nothing in this section shall allow the Education Professional Standards Board by

regulation to reclassify downward any teachers in Ranks II or I.

Effective: July 15, 2020

History: Amended 2020 Ky. Acts ch. 113, sec. 1, effective July 15, 2020. — Amended 2006 Ky. Acts ch. 87, sec. 1, effective July 12, 2006. — Created 2000 Ky. Acts ch. 527, sec. 7, effective July 14, 2000.

161.148 Use of volunteer personnel -- Criminal records check -- Orientation -- Exception.

- (1) As used in this section, "volunteers" means adults who assist teachers, administrators, or other staff in public school classrooms, schools, or school district programs, and who do not receive compensation for their work.
- (2) Local school districts may utilize adult volunteers in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.
- (3) Each board of education shall develop policies and procedures that encourage volunteers to assist in school or district programs.
- (4) Each local board of education shall develop and adopt a policy requiring a state criminal records check on all volunteers who have contact with students on a regularly scheduled or continuing basis, or who have supervisory responsibility for children at a school site or on school-sponsored trips. The request for records may be from the Justice and Public Safety Cabinet or the Administrative Office of the Courts, or both, and shall include records of all available convictions as described in KRS 17.160(1). Any request for a criminal records check of a volunteer under this subsection shall be on a form or through a process approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts. If the cabinet or the Administrative Office of the Courts charges fees, the local board of education shall arrange to pay the cost which may be from local funds or donations from any source including volunteers.
- (5) The local board of education shall provide orientation material to all volunteers who have contact with students on a regularly scheduled or continuing basis, including school policies, safety and emergency procedures, and other information deemed appropriate by the local board of education.
- (6) The provisions of this section shall not apply to students enrolled in an educational institution and who participate in observations and educational activities under direct supervision of a local school teacher or administrator in a public school.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 85, sec. 170, effective June 26, 2007. -- Amended 2001 Ky. Acts ch. 60, sec. 1, effective June 21, 2001. -- Created 2000 Ky. Acts ch. 336, sec. 1, effective July 14, 2000.

161.164 Political activity prohibited – Discrimination prohibited – Instructional materials requirements – Student not required to advocate for perspective with which he or she does not agree – Employee not required to engage in training that stereotypes group.

- (1) No employee of the local school district shall take part in the management or activities of any political campaign for school board.
- (2) No candidate for school board shall solicit or accept any political assessment, subscription, contribution, or service of any employee of the school district.
- (3) 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 as teacher or employee of any district board of education, 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.
- (4) No teacher or employee of any district board of education shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of his political or religious opinions or affiliations or ethnic origin or race or color or sex or age or disabling condition.
- (5) Any instruction or instructional materials on current, controversial topics related to public policy or social affairs provided to public school or public charter school students, regardless of whether the individual that provides the instruction is employed by the local school district or public charter school, shall be:
 - (a) Within the range of knowledge, understanding, age, and maturity of the students receiving the instruction; and
 - (b) Relevant, objective, nondiscriminatory, and respectful to the differing perspectives of students.
- (6) An employee of a public school district or public charter school shall not violate a student's First Amendment rights by requiring or incentivizing a student to advocate in a civic space on behalf of a perspective with which the student or the parent or guardian of a minor student does not agree.
- (7) An employee of a local school district or public charter school shall not be required to engage in training, orientation, or therapy that coerces the employee to stereotype any group.
- (8) The local superintendent shall inform all school employees of the provisions of this section.

Effective: July 14, 2022

History: Amended 2022 Ky. Acts ch. 196, sec. 5, effective July 14, 2022. -- Amended 1994 Ky. Acts ch. 405, sec. 29, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 476, Pt. II, sec. 79, effective July 13, 1990. -- Created 1962 Ky. Acts ch. 244, Art. IV, sec. 2.

Legislative Research Commission Note (7/14/2022). 2022 Ky. Acts ch. 196, sec. 8, provides that Sections 4 and 5 of the Act, this statute and KRS 158.196, may be cited as the Teaching American Principles Act.

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August 16, 2010

Stan Riggs
Executive Director
Kentucky Educational Development Cooperative
904 West Rose Road
Ashland, Kentucky 41102-7104

Re: Prohibited and Permitted Political Activities of School Employees

Dear Stan:

I have received several telephone calls requesting information regarding prohibited and permitted political activity of school employees and am providing this letter to respond to some of those requests.

There is not a lot of legal authority on this subject and the controlling law is KRS 161.164 and OAG 92-145.

KRS 161.164(5) (Exhibit A) requires the superintendent of each school district to notify all school employees of prohibited political activities related to school board campaigns.

In general, KRS 161.164 contains the following prohibitions for school employees in relation to school board campaigns:

1. No school employee may take part in the management of any school board campaign.
2. No school board candidate shall solicit or accept any assessment, subscription, contribution or service of any school employee.
3. No person shall directly use their official authority or influence to affect the appointment or pay of a school employee for the purpose of influencing the vote or political activity of any school employee.
4. No school employee shall be promoted or demoted because of political affiliations.

These general statutory prohibitions were flushed out into greater detail by the Attorney General in OAG 92-145 under the categories of "permitted" and "prohibited" conduct after the Kentucky Supreme Court held unconstitutional that portion of KRS 161.164 which prohibited school employees from being involved in some "activities" of school board campaigns while upholding that portion of KRS 161.164 which prohibits school board employees from being involved in the "management" of school board campaigns. *State Board of Elementary and Secondary Education v. Howard*, 834 S.W. 2d 657, 76 Ed Law Rep. 1211 (Ky.1992).

Basically, the Howard holding allowed school employees to voice their free speech rights off duty about school board candidates while denying their ability to manage school board campaigns.

In the remainder of this letter, I will attempt to provide more detail about what is permitted and what is prohibited by school employees in school board campaigns.

Permitted Conduct The following activities are permitted political conduct by school employees as related to school board campaigns:

1. School employees may register to vote and may actually vote.
2. School employees may privately express personal opinions regarding a school board candidate either in person, by telephone, or in writing.
3. School employees may publicly express personal opinions regarding a school board candidate either in person, by telephone, or in writing.
4. School employees may voluntarily display school board campaign signs on their own property.
5. School employees may voluntarily wear school board campaign badges or buttons vehicle duty.
6. School board candidates may provide, on request, campaign literature for the personal use of school employees.
7. School employees may voluntarily endorse school board candidates.
8. School employees may voluntarily sign a school board candidate's nominating petition.

Prohibited Conduct A school board candidate may not solicit or accept the following services if performed by a school district employee:

1. A school board candidate may not solicit or accept the distribution of campaign literature or material by a school employee.

2. A school board candidate may not solicit or accept the services of a school employee in canvassing a district or soliciting political support for a school board candidate, either in person, by telephone, or writing.
3. A school board candidate may not solicit or accept a school employee's assistance or working for the school board candidate's campaign.
4. A school board candidate may not solicit or accept contributions or services from school employees. Examples of prohibited services would be distributing campaign material, working at a campaign phone bank, driving a candidate to political events, driving the candidate around in general for political purposes, stuffing campaign envelopes, performing any fund-raising services for the candidate, contributing money/goods/property to the campaign, door to door solicitation or managing any aspect of the campaign. (It is my personal assumption that the Attorney General meant that these prohibited services would be related to and for the benefit of the school board candidate and his or her campaign. The specific OAG only addressed school board political campaigns, not political campaigns of non-school board campaigns.)
5. Agents of school board candidates may not solicit or accept any contributions, services or prohibited activities that a candidate cannot accept from school employees. Examples of such agents would be a school board candidate's campaign manager and campaign staff.
6. School board candidates and their agents may not solicit or accept the transfer of money, goods, property or other things of value from a school employee.
7. School employees may not wear school board campaign badges or buttons while on duty.
8. School employees may not be involved with the management of a school board campaign.

In general, the Kentucky Supreme Court and the Kentucky Attorney General believed school employees should retain their personal rights to personally voice their preference of a school board candidate, to read campaign materials, to wear campaign materials off duty and to place campaign signs on their personal property.

Certified staff should also be aware of their Professional Code of Ethics, a portion of which prohibits certified personnel from using "institutional privileges" for the promotion of political candidates or partisan political activities. 16 KAR 1:020, Section 1(3)(b)(6).

Finally, those districts who subscribe to the KSBA policy service should consult their policy manuals for policies which address political activities for certified staff. For

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example, 03.1324 and classified staff 03.2324. (See samples attached as Exhibits B and C)

As a side note, the Attorney General in OAG 92-156 concluded that school board candidates may state that they prefer a certain individual to serve as superintendent as this is protected free speech.

Should you or the board have any questions or need additional, please do not hesitate to contact me.

Sincerely,

Timothy Crawford

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161.180 Supervision of pupils' conduct.

- (1) Each teacher and administrator in the public schools shall in accordance with the rules, regulations, and bylaws of the board of education made and adopted pursuant to KRS 160.290 for the conduct of pupils, hold pupils to a strict account for their conduct on school premises, on the way to and from school, and on school sponsored trips and activities.
- (2) The various boards of education of the Commonwealth of Kentucky, and the principals of the public schools, may use teacher's aides in supervisory capacities, such as playground supervision, hallway supervision, lunchroom and cafeteria supervision, and other like duties, including, but not limited to, recreational activities and athletic events, relating to the supervision and control of the conduct of the pupils; and while so engaged, such teacher's aides shall have the same authority and responsibility as is granted to and imposed by law upon teachers in the performance of the same or similar duties.

Effective: July 13, 1990

History: Repealed and reenacted 1990 Ky. Acts ch. 476, Pt. V, sec. 481, effective July 13, 1990. -- Amended 1978 Ky. Acts ch. 273, sec. 1, effective June 17, 1978. -- Amended 1970 Ky. Acts ch. 105, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4503-4.

161.662 Status of disabled teachers and superintendents.

- (1) Teachers and superintendents with continuing status who retire because of disability shall, notwithstanding provisions of KRS 161.720 to 161.810 to the contrary, retain continuing status in the school district from which they retired for twenty-four (24) calendar months from the date of retirement, if the teacher or superintendent:
 - (a) Is approved for disability retirement under the provisions of KRS 161.661, or
 - (b) Is approved for disability retirement but elects to have benefits calculated on the service retirement formula under the provisions of KRS 161.661, or
 - (c) Is disqualified from receiving disability retirement benefits by KRS 161.661(2) but is otherwise eligible for disability retirement under the remaining provisions of KRS 161.661.
- (2)
 - (a) If the superintendent recovers from disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the employing board of education within the twenty-four (24) calendar month period but not later than April 15 prior to the beginning of the school term, the board of education shall reinstate the superintendent to active continuing status at the beginning of the school term. If notice of recovery from disability is not presented to the employing board of education within the twenty-four (24) calendar month period, or if the superintendent states to the board, in a verified document, prior to expiration of the twenty-four (24) calendar month period that he or she will not return to employment in the school system, the continuing service contract of the superintendent shall terminate as by retirement under the provisions of KRS 161.661.
 - (b) If the teacher recovers from disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the superintendent within the twenty-four (24) calendar month period but not later than April 15 prior to the beginning of the school term, the superintendent shall reinstate the teacher to active continuing status at the beginning of the school term. If notice of recovery from disability is not presented to the superintendent within the twenty-four (24) calendar month period, or if the teacher states to the superintendent, in a verified document, prior to expiration of the twenty-four (24) calendar month period that he or she will not return to employment in the school system, the continuing service contract of the teacher shall terminate as by retirement under the provisions of KRS 161.661.
- (3) Retirement because of disability under this section shall not be cause for termination of the contract of a teacher or superintendent under KRS 161.790 during the twenty-four (24) calendar month period described in this section. A teacher or superintendent who applies for disability retirement under the provisions of KRS 161.661 shall retain continuing service status during the period of time the application for disability retirement is being processed. If the application is not approved, the teacher or superintendent may return to the contract, employment, or leave status held prior to submission of the application.
- (4)
 - (a) If the superintendent recovers from the disability and presents written notice

of such recovery, supported by the statement of a licensed physician, to the employing board of education within twenty-five (25) through forty-two (42) months from the date of retirement, the board shall give priority consideration to reemployment of the superintendent for the first available position for which the superintendent is qualified and certified.

- (b) If the teacher recovers from the disability and presents written notice of such recovery, supported by the statement of a licensed physician, to the superintendent within twenty-five (25) through forty-two (42) months from the date of retirement, the superintendent shall give priority consideration to reemployment of the teacher for the first available position for which the teacher is qualified and certified.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 476, Pt. IV, sec. 246, effective July 13, 1990. --
Created 1982 Ky. Acts ch. 219, sec. 1, effective July 15, 1982.

161.720 Definitions for teachers' tenure law.

- (1) The term "teacher" for the purpose of KRS 161.730 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of the superintendent.
- (2) The term "year" as applied to terms of service means actual service of not less than seven (7) school months within a school year; provided, however, that any board of education may grant a leave of absence for professional advancement or military leave for active duty service with full credit for service.
- (3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.
- (4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until:
 - (a) The teacher resigns or retires;
 - (b) The contract is terminated or suspended as provided in KRS 161.790 and 161.800; or
 - (c) For contracts entered into on or after July 1, 2019, the teacher begins employment in a district-level administrative position in a county school district in a county with a consolidated local government adopted under KRS Chapter 67C. For purposes of this section and KRS 161.730 to 161.810, "district-level administrative position" means an administrative position in a local school district that has administrative-level duties and responsibilities that are not limited to one (1) school in the district.
- (5) The term "continuing status" means employment of a teacher under a continuing contract.
- (6) The term "standard" or "college" certificate for the purpose of KRS 161.730 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college or completion of a local district alternative certification training program.
- (7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer appointed by a board of education under the authority of KRS 160.350 or any person authorized by law to perform the duties of that officer.
- (8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employee, below the rank of superintendent, who devotes the majority of his or her employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, school psychologist, or school business administrator. The term "administrator" shall also include those assistant, associate, or deputy superintendents who do not fall within the definition of "superintendent" as set forth in subsection (7) of this section.
- (9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one (1) position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall

not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 65, sec. 3, effective June 27, 2019. -- Amended 2004 Ky. Acts ch. 161, sec. 2, effective July 13, 2004. -- Amended 1998 Ky. Acts ch. 176, sec. 1, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 85, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 518, sec. 8, effective July 13, 1990; and ch. 476, Pt. II, sec. 80, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 50, sec. 1, effective July 15, 1988. -- Amended 1974 Ky. Acts ch. 356, sec. 1. -- Amended 1964 Ky. Acts ch. 41, sec. 1. -- Amended 1944 Ky. Acts ch. 98, sec. 1. -- Created 1942 Ky. Acts ch. 113, sec. 1.

161.740 Eligibility for continuing service status -- Limited status employee on approved military leave -- Transfer of teachers -- Reinstatement after service in Armed Forces -- District-level administrative position in county with consolidated local government.

- (1) Teachers eligible for continuing service status in any school district shall be those teachers who meet qualifications listed in this section:
 - (a) Hold a standard or college certificate as defined in KRS 161.720 or meet the certification standards for vocational education teachers established by the Education Professional Standards Board.
 - (b) When a currently employed teacher is reemployed by the superintendent after teaching four (4) consecutive years in the same district, or after teaching four (4) years which shall fall within a period not to exceed six (6) years in the same district, the year of present employment included, the superintendent shall issue a written continuing contract if the teacher assumes his or her duties, except as provided in subsection (4) of this section, and the superintendent shall notify the board of the action taken. A limited status employee on approved military leave shall be awarded service credit for each year of military service or each year of combined military and school service within a school year toward continuing contract status. If the leave time will qualify the teacher for continuing contract status, the local district may require the teacher to complete a one (1) year probationary period upon return. If required, the local district shall notify the teacher in writing within fourteen (14) days following receipt of the military leave request. Each day served in the General Assembly by a board of education employee during a regular or extraordinary session shall be included in the computation of a year as defined in KRS 161.720(2).
 - (c) When a teacher has attained continuing contract status in one (1) district and becomes employed in another district, the teacher shall retain that status, except as provided in subsection (4) of this section. However, a district may require a one (1) year probationary period of service in that district before granting that status. For purposes of this subsection, the continuing contract of a teacher shall not be terminated when the teacher leaves employment, all provisions of KRS 161.720 to 161.810 to the contrary notwithstanding, and the continuing service contract shall be transferred to the next school district, under conditions set forth in this section, for a period of up to seven (7) months from the time employment in the first school district has terminated. Nothing contained herein shall be construed to give a teacher a right to reemployment in the first school district during the seven (7) month period following termination.
 - (d) Service credit toward a continuing contract shall begin only when a teacher is properly certified as defined in KRS 161.720(6) or, in the case of a vocational education teacher, when the required certification standards established by the Education Professional Standards Board have been met.
- (2) Vocational education teachers fulfilling the requirements in subsection (1) of this

section as of July 15, 1982, shall be eligible for continuing service status.

- (3) Whether employed under a limited contract or continuing service contract status, any teacher or superintendent who has been or may be hereafter inducted into the Armed Forces of this country, shall at the expiration of service be reemployed or reinstated in a comparable position as of the beginning of the next school year, provided application is made at least thirty (30) days before the opening of school, unless physically or mentally incapacitated according to medical notations on official discharge papers. Vacancies created by military leaves shall be filled by teachers or superintendents employed by the board of education under a limited contract of one (1) year or less.
- (4) Beginning July 1, 2019, a teacher employed in a district-level administrative position in a county school district in a county with a consolidated local government adopted under KRS Chapter 67C shall not be issued a written continuing contract. However, if a teacher had a written continuing contract prior to becoming employed in a district-level administrative position and transfers to another position in the district that is not a district-level administrative position, then the teacher shall revert to continuing service contract status. If the teacher becomes employed in another district, the teacher shall revert to continuing service contract status subject to the provisions of subsection (2)(c) of this section regarding probation and the time period for transferring a continuing service contract to another school district.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 65, sec. 4, effective June 27, 2019. -- Amended 2004 Ky. Acts ch. 161, sec. 3, effective July 13, 2004. -- Amended 2001 Ky. Acts ch. 136, sec. 3, effective June 21, 2001. -- Amended 1990 Ky. Acts ch. 476, Pt. II, sec. 82, effective July 13, 1990. -- Amended 1982 Ky. Acts ch. 354, sec. 1, effective July 15, 1982; and ch. 401, sec. 1, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 185, sec. 1. -- Amended 1964 Ky. Acts ch. 41, sec. 3. -- Amended 1954 Ky. Acts ch. 60, sec. 1. -- Amended 1944 Ky. Acts ch. 98, sec. 1. -- Created 1942 Ky. Acts ch. 113, sec. 3.

161.750 Nonrenewal of limited contracts.

- (1) Any teacher employed under a limited contract may be reemployed under the provisions of KRS 161.720 to 161.810 for the succeeding school year at the same salary, plus any increment or decrease as provided by the salary schedule, upon notification of the board by the superintendent of schools that the contract of the teacher is renewed.
- (2) If the superintendent does not renew the contract he shall present written notice to the teacher that the contract will not be renewed no later than May 15 of the school year during which the contract is in effect. Upon receipt of a request by the teacher, the superintendent shall provide a written statement containing the specific, detailed, and complete statement of grounds upon which the nonrenewal of contract is based.
- (3) The teacher shall be presumed to have accepted employment, unless he notifies the superintendent of schools in writing to the contrary on or before the fifteenth day of June, and a written contract for the succeeding year shall be executed accordingly.

Effective: April 14, 2008

History: Amended 2008 Ky. Acts ch. 113, sec. 4, effective April 14, 2008. -- Amended 1990 Ky. Acts ch. 476, Pt. II, sec. 83, effective July 13, 1990. -- Amended 1976 Ky. Acts ch. 103, sec. 1. -- Amended 1970 Ky. Acts ch. 169, sec. 1. -- Amended 1964 Ky. Acts ch. 41, sec. 4. -- Amended 1944 Ky. Acts ch. 98, sec. 1. -- Created 1942 Ky. Acts ch. 113, sec. 4.

161.760 Notice of salary to be paid to teacher -- Increases -- Reductions in responsibility.

- (1) The superintendent of schools shall give notice not later than forty-five (45) days before the first student attendance day of the succeeding school year or June 15, whichever occurs earlier, to each teacher who holds a contract valid for the succeeding school year, stating the best estimate as to the salary to be paid the teacher during the year. The salary shall not be lower than the salary paid during the preceding school year, unless the reduction is a part of a uniform plan affecting all teachers in the entire district, or unless there is a reduction of responsibilities. Nothing herein shall prevent increases of salary after the superintendent's annual notice has been given. All teachers who refuse assignment shall notify the superintendent in writing not later than thirty (30) days before the first student attendance day of the school year.
- (2) Transfer or change in appointment of teachers later than thirty (30) days before the first student attendance day of the school year shall be made only to fill vacancies created by illness, death, or resignations; to reduce or increase personnel because of a shift in school population; to make personnel adjustments after consolidation or merger; or to assign personnel according to their certification pursuant to KRS 161.010 to 161.120 provided, in the latter instance, that the teacher was appointed to a position outside his or her field of certification in the previous year.
- (3) Reduction of responsibility for a teacher may be accompanied by a corresponding reduction in salary provided that written notification stating the specific reason for the reduction shall be furnished to the teacher not later than ninety (90) days before the first student attendance day of the school year or May 15, whichever occurs earlier.
- (4) Employment of a teacher, under either a limited or a continuing contract, is employment in the school district only and not in a particular position or school.

Effective: April 14, 2008

History: Amended 2008 Ky. Acts ch. 113, sec. 5, effective April 14, 2008. -- Amended 2002 Ky. Acts ch. 78, sec. 1, effective July 15, 2002. -- Amended 1990 Ky. Acts ch. 476, Pt. II, sec. 84, effective July 13, 1990. -- Amended 1982 Ky. Acts ch. 338, sec. 1, effective July 15, 1982; and ch. 362, sec. 1, effective July 15, 1982. -- Amended 1970 Ky. Acts ch. 169, sec. 2. -- Amended 1964 Ky. Acts ch. 41, sec. 5. -- Amended 1944 Ky. Acts ch. 98, sec. 1. -- Created 1942 Ky. Acts ch. 113, sec. 5.

161.765 Procedures for demotion of administrative personnel – Appeal.

- (1) A superintendent may demote an administrator by complying with the requirements of KRS 161.760 when the administrator:
 - (a) Has not completed three (3) years of administrative service, not including leave granted under KRS 161.770; or
 - (b) Is in a district-level administrative position in a county school district in a county with a consolidated local government adopted under KRS Chapter 67C.
- (2) Except for an administrator described in subsection (1)(b) of this section, an administrator who has completed three (3) years of administrative service, not including leave granted under KRS 161.770, cannot be demoted unless the following procedures have been complied with:
 - (a) The superintendent shall give written notice of the demotion to the board of education and to the administrator. If the administrator wishes to contest the demotion, he or she shall, within ten (10) days of receipt of the notice, file a written statement of his or her intent to contest with the superintendent. If the administrator does not make timely filing of his or her statement of intent to contest, the action shall be final.
 - (b) Upon receipt of the notice of intent to contest the demotion, a written statement of grounds for demotion, signed by the superintendent, shall be served on the administrator. The statement shall contain:
 1. A specific and complete statement of grounds upon which the proposed demotion is based, including, where appropriate, dates, times, names, places, and circumstances;
 2. The date, time, and place for a hearing, the date to be not less than twenty (20) nor more than thirty (30) days from the date of service of the statement of grounds for demotion upon the administrator.
 - (c) Upon receipt of the statement of grounds for demotion the administrator shall, within ten (10) days, file a written answer. Failure to file such answer, within the stated period, will relieve the board of any further obligation to hold a hearing and the action shall be final. The board shall issue subpoenas as are requested.
 - (d) The hearing on the demotion shall be public or private, at the discretion of the administrator and shall be limited to the matters set forth in the written statement of grounds for demotion. The board shall provide to the administrator a verbatim transcript of the hearing. The board of education shall hear the case, with the board chairman presiding. The board, upon hearing the evidence and argument presented, shall retire to private chambers to arrive at a decision. Counsel or representatives for either party in the hearing shall not be consulted by the board unless the corresponding counsel or representatives for the other party are present and unless a verbatim transcript of such consultation is made for the record.
 - (e) Within five (5) days from the close of the hearing, the board of education shall

advise the parties of its decision and shall take official action in the case.

- (f) Appeal from final board action may be taken in the same manner and under the same provisions as an appeal from tribunal action under KRS 161.790.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 65, sec. 5, effective June 27, 2019. -- Amended 1990 Ky. Acts ch. 476, Pt. IV, sec. 283, effective July 13, 1990. -- Created 1974 Ky. Acts ch. 356, sec. 2.

161.770 Leaves of absence.

- (1) Upon written request of a teacher or superintendent, a board of education may grant a leave of absence for a period of not more than two (2) consecutive school years for educational or professional purposes, and shall grant such leave where illness, maternity, adoption of a child or children, or other disability is the reason for the request. Upon subsequent request, such leave may be renewed by the board. A board of education may pay a sum of money equivalent to all or any portion of salary to a teacher or superintendent who has been granted leave for educational or professional purposes if the person taking said leave agrees in writing to return to employment with the board for no less than two (2) years.
- (2) Without request, a board of education may grant leave of absence and renewals thereof to any teacher or superintendent because of physical or mental disability, but such teacher or superintendent shall have the right to a hearing and appeal on such unrequested leave of absence or its renewal in accordance with the provisions for hearing and appeal in KRS 161.790.
- (3) Any action taken under subsection (1) or (2) of this section shall not violate the Americans with Disabilities Act of 1990, the Health Insurance Portability and Accountability Act of 1996, or any other applicable federal law. A board of education:
 - (a) May only request medical information necessary to decide whether to grant a leave of absence;
 - (b) Shall not request or retain unnecessary medical information; and
 - (c) Shall not disclose any medical information received, except as permitted by state and federal law.
- (4) Upon the return to service of a teacher or superintendent at the expiration of a leave of absence, he shall resume the contract status which he held prior to such leave.
- (5) Payments to any teacher or superintendent under this section by a local district are intended and presumed to be for and in consideration of services rendered and for the benefit of the common schools and such payments do not affect the eligibility of any school district to share in the distribution of funds from the public school funds as established in KRS Chapter 157.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 30, sec. 1, effective June 27, 2019. -- Amended 1990 Ky. Acts ch. 476, Pt. IV, sec. 247, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 395, sec. 2, effective July 15, 1986. -- Amended 1976 Ky. Acts ch. 158, sec. 1. -- Amended 1944 Ky. Acts ch. 98, sec. 1. -- Created 1942 Ky. Acts ch. 113, sec. 6.

161.780 Termination of contract by teacher or superintendent -- Resignation binding as of date of acceptance.

- (1) No teacher shall be permitted to terminate his or her contract within fifteen (15) days prior to the first instructional day of the school term at a school to which the teacher is assigned or during the school term without the consent of the superintendent. No superintendent shall be permitted to terminate his or her contract within thirty (30) days prior to the beginning of the school term or during the school term without the consent of the employing board of education. A teacher shall be permitted to terminate his or her contract at any other time when schools are not in session by giving two (2) weeks written notice to the employing superintendent. A superintendent shall be permitted to terminate his or her contract at any other time when schools are not in session by giving two (2) weeks written notice to the employing board of education. Upon complaint by the employing board or superintendent to the Education Professional Standards Board, the certificate of a teacher or superintendent terminating his contract in any manner other than provided in this section may be suspended for not more than one (1) year, pursuant to the hearing procedures set forth in KRS 161.120.
- (2) If a teacher voluntarily resigns his contract during the school term, the resignation shall be in writing and shall become binding on the date the resignation is accepted by the superintendent. No further action by the employing board is necessary. The resignation is effective on the date specified in the letter of resignation. A resignation, once accepted, may be withdrawn only with the approval of the employing board of education. Nothing in this subsection shall release the teacher from liability to the local board of education for breach of contract.

Effective: April 14, 2008

History: Amended 2008 Ky. Acts ch. 113, sec. 7, effective April 14, 2008. -- Amended 2000 Ky. Acts ch. 269, sec. 2, effective July 14, 2000. -- Amended 1992 Ky. Acts ch. 326, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 56, sec. 1, effective July 13, 1990; and ch. 476, Pt. IV, se 248, effective July 13, 1990. -- Amended 1978 Ky. Acts ch. 57, sec. 1, effective June 17, 1978. -- Amended 1944 Ky. Acts ch. 98, sec. 1. -- Created 1942 Ky. Acts ch. 113, sec. 7.

161.790 Termination of contract by board -- Administrative hearing tribunal -- Sanctions.

- (1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:
 - (a) Insubordination, including but not limited to violation of the school laws of the state or administrative regulations adopted by the Kentucky Board of Education, the Education Professional Standards Board, or lawful rules and regulations established by the local board of education for the operation of schools, or refusal to recognize or obey the authority of the superintendent, principal, or any other supervisory personnel of the board in the performance of their duties;
 - (b) Immoral character or conduct unbecoming a teacher;
 - (c) Physical or mental disability; or
 - (d) Inefficiency, incompetency, or neglect of duty, when a written statement identifying the problems or difficulties has been furnished the teacher or teachers involved.
- (2) Charges under subsection (1)(a) and (d) of this section shall be supported by a written record of the actions of the teacher upon which the charge is based, provided by the superintendent, principal, or other supervisory personnel of the district, except when the charges are brought as a result of a recommendation made under KRS 158.6455.
- (3) No contract shall be terminated except upon notification of the board by the superintendent. Prior to notification of the board, the superintendent shall furnish the teacher with a written statement specifying in detail the charge against the teacher. The teacher may within ten (10) days after receiving the charge notify the commissioner of education and the superintendent of his or her intention to answer the charge, and upon failure of the teacher to give notice within ten (10) days, the dismissal shall be final.
- (4) (a) Except as provided in KRS 163.032, upon receiving the teacher's notice of his or her intention to answer the charge, the commissioner of education shall appoint a three (3) member tribunal, consisting of one (1) teacher, who may be retired, one (1) administrator, who may be retired, and one (1) attorney to serve as hearing officer and chairperson of the tribunal, none of whom reside in the district, to conduct an administrative hearing in accordance with KRS Chapter 13B within the district. Priority for selection as a teacher or administrator tribunal member shall be from a pool of potential tribunal members who have been designated and trained to serve as tribunal members on a regular and ongoing basis, pursuant to administrative regulations promulgated by the Kentucky Board of Education. Funds appropriated to the Department of Education for professional development may be used to provide tribunal member training. The commissioner of education shall set the date and time for the hearing. The hearing shall begin no later than forty-five

(45) days after the teacher files the notice of intent to answer the charge unless an extension is granted by the hearing officer or otherwise agreed to by the parties.

- (b) The hearing officer shall be appointed from a pool of hearing officers who have received in-depth training in the law related to employment of teachers and in the conduct of due process hearings pursuant to KRS Chapter 13B, and who hold other qualifications as determined by the Kentucky Board of Education.
 - (c) The hearing officer training shall be designed and conducted by the Kentucky Department of Education.
 - (d) The Kentucky Board of Education shall adopt administrative regulations to implement the due process provisions required by this section. Persons serving as hearing officers shall be paid or reimbursed as provided in KRS 13B.030.
- (5) The hearing officer shall schedule a mandatory prehearing conference with the parties, which may be held in person or electronically through the use of technology. Prehearing motions may be disposed of at the conference. The hearing officer shall have the authority to mediate settlement and to enter an agreed order if the matter is resolved by the parties. A hearing officer shall have final authority to rule on dispositive prehearing motions.
- (6) If the matter is not settled or dismissed as a result of the prehearing conference, a tribunal hearing shall be conducted. The hearing may be public or private at the discretion of the teacher. At the hearing, the hearing officer appointed by the commissioner of education shall preside with authority to rule on procedural matters, but the tribunal as a whole shall be the ultimate trier of fact. The local board shall pay each teacher and administrator member of the tribunal a per diem of one hundred dollars (\$100) and travel expenses.
- (7) Upon hearing both sides of the case, the tribunal may by a majority vote render its decision or may defer its action for not more than five (5) days. The decision, written in a recommended order, shall be limited to upholding or overturning the decision of the superintendent. The hearing officer shall then within fifteen (15) days submit to the parties the written recommended order in a form complying with the requirements of KRS 13B.110(1). Each party may file written exceptions no later than fifteen (15) days from receipt of the recommended order. Upon consideration of the exceptions filed by the parties, the hearing officer may order a settlement conference between the parties. Within ten (10) days after either the consideration of the exceptions or a settlement conference, whichever occurs later, the hearing officer shall enter a final order. If there is no settlement reached, the final order shall affirm the recommended order. If a settlement is reached, the final order shall approve the terms of a written settlement as an agreed order. Provisions of KRS Chapter 13B notwithstanding, the hearing officer's decision shall be a final order.
- (8) The superintendent may suspend the teacher pending final action to terminate the contract, if, in his or her judgment, the character of the charge warrants the action. If

the contract termination is overturned by the final order, the suspended teacher shall be paid his or her full salary for any period of suspension.

- (9) The teacher shall have the right to make an appeal to the Circuit Court having jurisdiction in the county where the school district is located in accordance with KRS Chapter 13B. The review of the final order shall be conducted by the Circuit Court as required by KRS 13B.150.
- (10) As an alternative to termination of a teacher's contract, the superintendent upon notifying the board and providing written notification to the teacher of the charge may impose other sanctions, including suspension without pay, public reprimand, or private reprimand. The procedures set out in subsection (3) of this section shall apply if the teacher is suspended without pay or publicly reprimanded. The teacher may appeal the action of the superintendent if these sanctions are imposed in the same manner as established in subsections (4) to (9) of this section. Upon completion of a suspension period, the teacher may be reinstated.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 30, sec. 2, effective June 27, 2019. -- Amended 2006 Ky. Acts ch. 208, sec. 3, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 141, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 200, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 598, sec. 16, effective April 14, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 53, effective July 15, 1996; and ch. 362, sec. 6, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 476, Pt. II, sec. 85, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 370, sec. 1, effective July 15, 1988. -- Amended 1964 Ky. Acts ch. 41, sec. 6. -- Amended 1944 Ky. Acts ch. 98, sec. 1. -- Created 1942 Ky. Acts ch. 113, sec. 8.

161.800 Suspension of contracts on reducing number of teachers.

When by reason of decreased enrollment of pupils, or by reason of suspension of schools or territorial changes affecting the district, a local superintendent decides that it shall be necessary to reduce the number of teachers, he shall have full authority to make reasonable reduction. But, in making such reduction, the local superintendent shall, within each teaching field affected, give preference to teachers on continuing contracts and to teachers who have greater seniority. Teachers whose continuing contracts are suspended shall have the right of restoration in continuing service status in the order of seniority of service in the district if teaching positions become vacant or are created for which any of the teachers are or become qualified.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 476, Pt. IV, sec. 249, effective July 13, 1990. --
Amended 1944 Ky. Acts ch. 98, sec. 1. -- Created 1942 Ky. Acts ch. 113, sec. 9.

162.030 Condemnation of property for school purposes.

Each board of education may, when unable to make a contract satisfactory to the board with the owner for the purchase of real estate to be used for school purposes, initiate condemnation proceedings pursuant to the Eminent Domain Act of Kentucky (KRS 416.540 to 416.670), and the title to land so obtained shall be vested in fee simple.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 476, Pt. IV, sec. 250, effective July 13, 1990. -- Amended 1976 Ky. Acts ch. 140, sec. 67. -- Amended 1954 Ky. Acts ch. 20, sec. 2. - Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4399-21.

162.050 Use of schoolhouse by public assembly.

The board of education of any school district may permit the use of the schoolhouse, while school is not in session, by any lawful public assembly of educational, religious, agricultural, political, civic, or social bodies under rules and regulations which the board deems proper.

Effective: July 13, 1990

History: Repealed and reenacted 1990 Ky. Acts ch. 476, Pt. V, sec. 551, effective July 13, 1990. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4399-53.

1-

BOARD LETTERHEAD
(less than 4 years of classified employment)

DATE

Employee Name
Address

RE: Notice of Nonrenewal

Dear Mr./Ms. _____:

Unfortunately, this is written to notify you that your employment contract will not be renewed after the 2014-2015 school year. Under KRS 161.011(5)(a), you may request in writing within ten (10) days of receipt of this letter the written reasons for the non-renewal.

I thank you for your services to the students of Barbourville Independent and wish you the best in the future. Please feel free to apply for any vacancies that may come open in the future.

Sincerely,

Superintendent

cc: Personnel file
Payroll

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BOARD LETTERHEAD
(more than 4 years of classified employment)

DATE

Employee Name
Address

RE: Notice of Nonrenewal

Dear Mr./Ms. _____:

Unfortunately, this is written to notify you that your employment contract will not be renewed after the 2014-2015 school year due to the position becoming obsolete as a result of the decision to close the day care program after this school year. Under KRS 161.011(7), and Board Policy 03.2711, contracts may be non-renewed if a position becomes obsolete or due to program reorganization. Under KRS 161.011(5)(b), you may request in writing within ten (10) days of receipt of this letter a specific and complete written statement of grounds; you will then have ten (10) days to respond in writing to the grounds for non-renewal.

I thank you for your services to the students of Barbourville Independent and wish you the best in the future. Please feel free to apply for any vacancies that may come open in the future.

Sincerely,

Superintendent

cc: Personnel file
Payroll

24 30

DATE

Teacher
Address

RE: Nonrenewal of Limited Contract

Dear _____:

This is written to inform you that your limited teaching contract will not be renewed for the 2014-2015 school year pursuant to KRS 161.750(2). The reason for the nonrenewal is the reduction in funding for the upcoming school year.

I regret having to take this action and I thank you for your service to this school district. You are encouraged to apply for any vacancies in the future for which you are certified to teach.

With kindest personal regards,

Sincerely,

Superintendent

cc: Personnel File
Timothy Crawford, Board Attorney
Board Minutes

Certificate of Service

This was hand delivered to _____ on this ____ day of _____, 20____.

Signature

29 25

DATE

Name
Address

RE: Reduction in Responsibility and Pay for 2014-2015 School Year

Dear Mr./Ms. _____:

Pursuant to KRS 161.760(3), this is written to notify you that your extended days will be reduced by two (2) days for the 2014-2015 school year and your pay for these two (2) extended days will also be eliminated. The reason for this reduction in your extended days is due to the requirement of HB 380 that we add two (2) instructional days to the 2014-2015 school term. Thus, your underlying certified employment for the 2014-2015 school year will be increased by two (2) days from 185 days to 187 days and your extended days will be reduced by two (2) days from _____ days to _____ days.

The best estimate of your salary for the 2014-2015 school year will be
\$ _____.

Should you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

Superintendent

cc: Personnel file
Payroll

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RE: Private Reprimand

Dear Ms.:

Pursuant to KRS 161.790(10), this is written to reprimand you for taking two of your male students, to your home during school on or about May 21, 2004. According to the information I received, you did not have the permission of the parents, you did not have the permission of your principal and the trip was not connected with school approved activity. Also, I understand you did not arrange with the principal to have a substitute cover your duties while you were absent. Consequently, it appears the trip home that day with the two underage boys was for personal reasons completely unrelated to any of your duties as a teacher.

For those actions I could charge you with insubordination, conduct unbecoming a teacher and neglect and either terminate your contract or suspend you without pay for a period of time. Since this is the first report against you of such activity, I have chosen, instead, to strongly admonish you with this private reprimand and to require you to undergo four hours of training related to the Professional Code of Ethics for Certified Personnel, supervision of students, student conduct and your responsibilities to your students and the school. Your principal will be directed to develop a Corrective Action Plan with you to include this training and two administrators from this district will contact you to provide this training.

Also, if you fail to cooperate and complete with your principal in developing the Corrective Action Plan or fail to cooperate and complete the required training, I will consider that an act of insubordination and I will impose much more severe discipline under KRS 161.790.

Finally, if I receive future complaints about similar actions with students or find that you engaged in any inappropriate or illegal activity with the two students on or about May 21, 2004, I will impose serious disciplinary action under KRS 161.790, maybe even terminating your contract with this Board of Education.

I look forward to your cooperation and I hope you fully understand the problems you caused at school, in this school district and with the families of the two students for you taking these 2 young boys home during a school day without any type of permission.

With kindest personal regards,

Sincerely,

Superintendent

cc: Personnel File

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Private Reprimands



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

JACK CONWAY
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

15-ORD-054

March 24, 2015

In re: *News Journal/Whitley County Board of Education*

Summary: Whitley County Board of Education did not violate the Open Records Act in denying a request for a copy of a **private reprimand** given to former Whitley County High School Principal under KRS 161.790(10), incorporated into the Open Records Act by operation of KRS 61.878(1)(1).

Open Records Decision

Mark White, Editor of the *News Journal*, initiated this appeal challenging the denial by Whitley County Superintendent Scott L. Paul (Records Custodian for the Whitley County School District and Secretary of the Board of Education) of his February 9, 2015 request for "a copy of any disciplinary action by the district against Whitley County High School Principal Alan Sweet since he became high school principal in 2009." Mr. White acknowledged that Mr. Sweet is currently on administrative leave and the District would consequently not have any documents reflecting the final action of the agency regarding the current investigation. Whitley County School Board Attorney Timothy Crawford responded on behalf of his client by letter dated February 11, 2015, advising Mr. White that "[w]e only have one document which is responsive to this request but, that document, a private reprimand, is shielded and exempt from disclosure by law."

Quoting the language of KRS 61.878(1)(1), Mr. Crawford argued that "[t]he General Assembly has made 'private' reprimands of teachers, as opposed to



RE: Status of Employees while on Board approved Leave

The issue came up recently about the status of school employees while they are on board approved leave. This issue has been addressed by the Attorney General, several statutes, board policies and here are some general rules:

1. While employees are on leave they are not legally separated from their employment with the board, but instead only temporarily relieved from performing their duties.
2. Those employees are still employees of the school district and by being so they continue to be subject to the laws generally and specifically applicable to the status of an employee.
3. Employees on leave can be disciplined or fired for violating the law or board policies while on leave.
4. A non-tenured teacher on leave can receive a notice of nonrenewal just as a non-tenured teacher would who is not on leave. (By implication, this also would apply to your classified employees under KRS 161.011.)
5. School boards are restricted to granting leave only for those reasons specifically identified in state statutes and board policies.
6. KERA nepotism restrictions still apply to those employees who are on leave.

Source: OAG 76-679, 84-43, 91-134, 92-157 and 01-9.

This also prohibits an employee on leave from working for another employer during the leave, especially when you combine the above with KSEA Policies 03.1331 (certified) and 03.2331 (classified) that prohibit employees from working for another employer during their regular working hours.

7. Unpaid leave is not available for volunteer relief work after natural disasters unless the school employee is a certified Red Cross volunteer under KRS 61.395 and then this leave for a certified Red Cross volunteer is discretionary, not mandatory, with a local board of education which must utilize the procedures outlined in KRS 61.395.

8. Personal leave could be taken for volunteer natural disaster relief work but, KRS 161.154 limits boards to permitting up to 3 personal leave days per school year and personal leave days are available only if a local board has adopted such a policy.

RE: Teaching Experience for Pay Purposes

KRS 157.320(10) (Exhibit "A") states that a teacher who is employed for a minimum of at least 140 days of a school year, other than as a substitute or nursery teacher, and who performs teaching duties of at least 70 full school days during that school year, shall be credited with one (1) year of experience. The statute does not seem to have a limit on the number of years of experience other than you cannot grant more than one (1) year of experience during a single school year.

I believe this statute relates to local district experience for pay purposes, not for tenure purposes nor for retirement service credit purposes. Teachers' tenure is covered in other statutes and tenure experience is defined in KRS 161.720(2) as 7 months within a school year.

On the other hand, if a teacher for pay purposes meets the minimum requirements of KRS 157.320(10), your website contains Policy 03.121 (Exhibit "B") with 2 rank and experience requirements. First, the rank and experience of the teacher has to be determined at the time (i.e., date) of hire and, second, the policy directs the superintendent to "validate" all experience of professional personnel employed in the district. Thus, the rank and experience for pay purposes is effective as of the date of hire and incoming professional (i.e., certified) staff must have their previous employers provide you with proof of their prior work experience.

This same board policy directs that "changes" in rank and experience be determined on September 15; but, the policy mandates that rank and experience be determined at the "time of hire."

Let me know if you have any questions and with kindest personal regards,

Sincerely,

Timothy Crawford

TC/mjw

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