

CHAPTER 269**(HB 623)**

AN ACT relating to certified school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.120 is amended to read as follows:

(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 (2)~~(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)~~(n)~~ 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) If an alleged violation is not of a serious nature and the evidence presented to the Education Professional Standards Board, after an appropriate opportunity for the certificate holder to respond, provides clear indication that the alleged conduct did in fact occur, the board may issue a written admonishment to the certificate holder. The certificate holder shall have the right to file a written response within thirty (30) days of the date of the admonishment and to have the response attached to the admonishment. Alternatively, the certificate holder may file a request for a hearing within thirty (30) days of the date of the written admonishment. Upon receipt of a timely request, the board shall set aside the written admonishment and set the matter for a hearing.~~
- ~~(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) 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 possession.
 - (c) The Education Professional Standards Board may consider reports and information received from other sources.
 - (d) 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*~~and~~ shall have the right to file a written rebuttal *to the report* which shall be *placed in the official file with the report*~~attached to the district superintendent's report~~.
- ~~(3)~~~~(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.

- (4) *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) days of receipt and have that response placed in his official certification file. Alternatively, the certificate holder may file a request for a hearing with the board within thirty (30) 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.*
- (5) (a) *The Education Professional Standards Board shall schedule and conduct a hearing in accordance with KRS Chapter 13B:*
1. Before revoking, suspending, refusing to renew, imposing probationary or supervisory conditions upon, issuing a written reprimand, or any combination of these actions regarding any certificate; ~~the Education Professional Standards Board shall schedule and conduct a hearing in accordance with KRS Chapter 13B.~~
 2. ~~(6)~~ After denying an application for a certificate, ~~or issuing a written admonishment, the Education Professional Standards Board shall set the matter for a hearing~~ upon written request filed within thirty (30) days of *receipt of* the letter advising of the denial; ~~or refusal, or admonishment.~~
 3. *After issuing a written admonishment, upon written request for a hearing filed within thirty (30) days of receipt of the written admonishment.*
- (b) ~~(7)~~ Upon request, a hearing may be public or private at the discretion of the certified employee or applicant.
- (c) ~~(8)~~ The hearing shall be conducted before the full board, a panel of three (3) members of the board, or a person appointed as hearing officer by the board pursuant to KRS 13B.030(1).
- (6) ~~(9)~~ 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.
- (7) ~~(10)~~ 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.
- (8) *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.*
- (9) *The board may reconsider, modify, or reverse its decision on any disciplinary action.*
- (10) *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.*
- (11) *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*~~[Any individual whose certificate is revoked may apply for reissuance of his certificate when he believes he can demonstrate himself suitable for reissuance, unless the Education Professional Standards Board's order of revocation sets forth a specific minimum period of revocation].~~
- (12) An appeal from any final order of the Education Professional Standards Board shall be filed in Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 2. KRS 161.780 is amended to read as follows:

- (1) No teacher~~[or superintendent]~~ shall be permitted to terminate his *or her* contract within thirty (30) days prior to the beginning of ~~the~~^{his} school term *or during the school term* without the consent of the ~~superintendent~~^{board}. *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~~[or 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 ~~superintendent~~^{board of education}. *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~~[and after investigation by the 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 Section 1 of this Act.*
- (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.

Approved March 31, 2000