

EDUCATION AND LABOR CABINET
Board of Education
Department of Education
(Amended at ARRS Committee)

701 KAR 5:090. Teacher disciplinary hearings.

RELATES TO: KRS 161.770, 161.790

STATUTORY AUTHORITY: KRS 156.070, 161.770, 161.790(4)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.790(4) and 161.770 require~~rs~~ the commissioner of education to appoint an impartial three (3) member tribunal to conduct an administrative hearing and issue a~~make the~~ final decision ~~when determination on charges concerning~~ a local school district seeks~~district's proposal~~ to discipline ~~for place on involuntary leave~~ a teacher or place a~~if the~~ teacher on involuntary leave, if the teacher timely requests a hearing~~gives timely notice of his or her intent to answer the charges~~. This administrative regulation establishes the~~administrative and hearing~~ procedures governing tribunal hearings and sets the qualifications and training requirements for tribunal members~~with respect to the tribunal process and identifies the required training for tribunal members designated to serve as tribunal members on an ongoing basis~~.

Section 1. Definitions.

- (1) "Commissioner" means the commissioner of the Kentucky Department of Education.
- (2) "Department" means the Kentucky Department of Education.
- (3) "Hearing officer" means the attorney member of the tribunal appointed by the commissioner.
- (4) "Timely request" means written notification from a teacher meeting all requirements of KRS 161.790(3), and received by the commissioner within ten (10) days following the receipt of written charges by teacher.
- (5) "Tribunal" means the three (3) member panel appointed pursuant to KRS 161.790(4).
- (6) "Written charges" means the written rationale provided by a school district to an employee supporting:
 - (a) Contract termination, suspension without pay, or public reprimand pursuant to **KRS** 161.790; or
 - (b) Involuntary leave pursuant to KRS 161.770.

Section 2. ~~Section 1.~~ Notification to the Commissioner of Discipline or Involuntary Leave. ~~If a~~A local school district superintendent ~~proposes~~proposes to discipline of a teacher pursuant to KRS 161.790, other than private reprimand, or a board of education ~~places~~placing a teacher or superintendent on involuntary leave pursuant to KRS 161.770, the district shall immediately send~~, after notice to the employee, transmit a copy of the notice of the action to~~ the commissioner ~~of education~~ a copy of the written charges and documentation of the date the employee received the written charges~~, along with advice as to the date of the receipt of the notice by the employee~~.

Section 3. ~~Section 2.~~ Hearing Officer Qualifications. Upon receipt of a timely request, the commissioner shall appoint a hearing officer who shall hold the following qualifications~~notification from a teacher pursuant to KRS 161.790(3) of the teacher's intention to answer the charges against him or her, the commissioner shall appoint a hearing officer in accordance with KRS 161.790(4) who meets the following qualifications~~:

- (1) Be ~~The hearing officer shall be~~ an attorney licensed to practice law in the Commonwealth of Kentucky and in good standing with the state licensing authority for

attorneys~~[Kentucky Bar Association]~~;

(2) Completed ~~[The hearing officer shall complete]~~ biennial training ~~[as]~~ approved by the department~~[Kentucky Department of Education]~~ on the following topics:

(a) Teacher employment law; and

(b) The Professional Code of Ethics in 16 KAR 1:020; and

(3) Satisfies all training requirements in 40 KAR 5:010 ~~[related to the employment of teachers;]~~

~~[(3)] [The hearing officer shall complete biennial training as approved by the Kentucky Department of Education related to the professional code of ethics for Kentucky school certified personnel set forth in 16 KAR 1:020; and]~~

~~[(4)] [The hearing officer shall meet the training requirements set forth in 40 KAR 5:010].~~

Section 4. [Section 3.] Teacher and Administrator Tribunal Members~~[Qualifications]~~.

(1) Every ~~[Beginning in 2019 and every]~~ four (4) years~~[thereafter]~~, the department~~[Kentucky Department of Education]~~ shall establish and maintain a pool consisting of not more than twenty (20) teacher members and not more than twenty (20) administrator members who may be assigned to a tribunal. The department shall solicit applications for the purpose of identifying qualified individuals to serve as potential tribunal members.

(2) Any individual seeking consideration for inclusion in the pool shall submit a completed Teacher and Administrator Tribunal Member Application in accordance with procedures established by the department ~~[to establish a pool of potential teacher or administrator tribunal members. Individuals who wish to be considered for the pool of potential teacher or administrator tribunal members shall apply using the Teacher and Administrator Tribunal Member Application. The Kentucky Department of Education shall select no more than twenty (20) potential teacher tribunal members for the pool using procedures developed by the Kentucky Department of Education for the receipt, review, and selection of applicants. The Kentucky Department of Education shall select no more than twenty (20) potential administrator tribunal members for the pool using procedures developed by the Kentucky Department of Education for the receipt, review, and selection of applicants].~~

(3) ~~[(2)]~~ Teacher ~~[To be a member of the pool of potential teacher tribunal]~~ members of the tribunal~~[designated to serve as a teacher tribunal member on an ongoing basis, a person]~~ shall:

(a) Hold a valid Kentucky teaching certificate issued by the Education Professional Standards Board and be in good standing; or

(b) Be retired and previously~~[have]~~ held a valid Kentucky teaching certificate issued by the Education Professional Standards Board that was not revoked or surrendered as a result of disciplinary~~[revocation]~~ proceedings.

(4) ~~[(3)]~~ Administrator ~~[To be a member of the pool of potential administrator tribunal]~~ members of the tribunal~~[designated to serve as an administrator tribunal member on an ongoing basis, a person]~~ shall:

(a) Hold a valid Kentucky teaching certificate for the performance of administrative duties issued by the Education Professional Standards Board and be in good standing; or

(b) Be retired and previously~~[have]~~ held a valid Kentucky teaching certificate for the performance of administrative duties issued by the Education Professional Standards Board that was not revoked or surrendered as a result of disciplinary~~[revocation]~~ proceedings.

(5) ~~[(4)]~~ Teacher and administrator tribunal members shall complete ~~[Individuals selected for the pool of potential teacher or administrator tribunal members designated to serve as~~

~~a teacher or administrator tribunal member on an ongoing basis shall complete~~ training approved by the ~~department~~~~[Kentucky Department of Education]~~ on the following topics at least once every four (4) years:

- (a) The hearing process;
 - (b) Roles of tribunal members and the hearing officer ~~[The role of the tribunal];~~
 - (c) Fact-finding and deliberation ~~[The role of the hearing officer];~~
 - (d) ~~[How to determine facts;]~~
 - ~~[(e)]~~ Fundamental fairness;
 - ~~[(e)]~~ ~~[(f)]~~ The law on teacher disciplinary actions set forth at KRS 161.790; and
 - ~~[(f)]~~ ~~[(g)]~~ The professional code of ethics ~~[for Kentucky school certified personnel]~~ set forth in 16 KAR 1:020~~[- and]~~
 - ~~[(h)]~~ The deliberative process.
- ~~[(5)]~~ For attending training approved by the ~~department~~~~[Kentucky Department of Education]~~, teacher and administrator tribunal members~~[required to be a member of the pool of potential teacher or administrator tribunal members, a person]~~ shall receive a \$100 per diem~~[of \$100]~~ and travel reimbursement~~[of travel expenses]~~ from the ~~department~~~~[Department of Education]~~.

Section 5. ~~[Section 4.]~~ Expenses~~[Reimbursement]~~.

- (1) The local school district shall be responsible for paying the assigned hearing officer's costs as billed by the department, including~~[pay all]~~ travel expenses of the hearing officer~~[tribunal member]~~pursuant to~~[in accordance with]~~ 200 KAR 2:006.
- (2) No later than the convening of the tribunal hearing, the local school district shall advise the teacher and administrator tribunal members how to claim their per diem and travel expenses, to be paid by the school district.

Section 6. ~~[Section 5.]~~ Conduct of Hearing.

- (1) Hearings ~~[A hearing before the tribunal]~~ shall be conducted in accordance with KRS Chapter 13B.
- (2) The tribunal shall be presented with the written charges~~[notification described in Section 1, which sets forth the charges for discipline or involuntary leave]~~.
- (3) The hearing officer shall instruct the tribunal regarding the burden of proof, including which party bears the burden of proof.
- (4) If, for any reason and after testimony has commenced, a tribunal member becomes unavailable to complete the hearing of the evidence of both parties, an appropriate substitute tribunal member shall be appointed by the commissioner ~~[of education]~~ and provided by the school district with a written transcript of all prior proceedings at the hearing unless waived under subsection (5) of this section.
- (5) A hearing may be concluded and a decision rendered by a two (2) member tribunal upon express agreement of both parties so long as one (1) of the two (2) tribunal members is a hearing officer ~~[member in accordance with Section 2 of this administrative regulation]~~.

Section 7. ~~[Section 6.]~~ Continuances.

- (1)
 - (a) If, after a requested hearing has been scheduled by the commissioner~~[of education or his or her designee]~~, a continuance is requested by the teacher, the teacher shall specifically and in writing waive the statutory hearing deadlines and any subsequent backpay award for the period of the requested continuance. A continuance initiated by the teacher shall not be granted without the appropriate waiver.
 - (b) If the continuance request was initiated by the school district, a waiver shall not be required.

(2) A continuance requested by the teacher may be granted for good cause shown, including pending criminal charges making it inadvisable for the employee to testify at an administrative hearing or late entry of an attorney into the case on behalf of the employee.

(3) A continuance requested by the school district, and not agreed to by the employee, may be granted upon documentation of good cause making it impossible or prejudicially impractical for the district to adequately present its case at the scheduled hearing.

(4) A request for continuance made prior to the ~~three (3) member~~ tribunal hearing commencing~~convening~~ shall be submitted in writing to the hearing officer.

Section 8. ~~[Section 7.]~~ Incorporation by Reference.

(1) The "Teacher and Administrator Tribunal Member Application", June ~~2026~~~~[2019]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law at the Department of Education, 5th floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

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