

63.080 Officers appointed by Governor may be removed without cause -- Exceptions -- Removal of university or KCTCS board members for cause or to comply with proportional representation requirements.

- (1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.
- (2)
 - (a) Except as provided in subsections (3) and (4) of this section, members of the Kentucky Board of Education; the board of trustees of the University of Kentucky; the board of trustees of the University of Louisville; and the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University, Murray State University, and the Kentucky Community and Technical College System shall not be removed except for cause.
 - (b) Members of the Council on Postsecondary Education shall not be removed except for cause.
 - (c) A member of a board of trustees or board of regents specified in paragraph (a) of this subsection may be removed for cause as follows:
 1. The Governor or the board of trustees or board of regents, as applicable, shall notify, in writing, the member and the Council on Postsecondary Education that the member should be removed for cause and shall specify the conduct warranting removal;
 2. The member shall have seven (7) days to voluntarily resign or to provide evidence to the Council on Postsecondary Education that the member's conduct does not warrant removal;
 3. Within thirty (30) days after receipt of notice from the Governor or the board, the Council on Postsecondary Education shall review the written notice, investigate the member and the conduct alleged to support removal, and make a nonbinding recommendation, in writing, to the Governor as to whether the member should be removed, a copy of which shall also be provided to the Legislative Research Commission;
 4. The Governor shall then make a determination, in writing, whether the member should be removed and shall notify the member, the applicable board, the Council on Postsecondary Education, and the Legislative Research Commission of the determination; and
 5. If the Governor's determination is to remove the member, the Governor shall remove the member by executive order, and shall replace the member with a new appointment according to the applicable statutes for the board of trustees or board of regents.
 - (d) For the purposes of this subsection, a member may be removed for cause for conduct including but not limited to malfeasance, misfeasance, incompetence, or gross neglect of duty.

- (3) For a board specified in subsection (2)(a) of this section that is required by law to have proportional representation in its membership based on residence, political affiliation, gender, minority racial composition, or professional qualifications, the Governor or other appointing authority may remove any member of the board and replace him or her with another individual in order to bring the membership into compliance with the statutory proportional representation requirement for the board, provided that the Governor or other appointing authority shall:
- (a) Only exercise the removal authority granted in this subsection if appointment at the end of the next expiring term of a member, or at the end of the next expiring term of members if two (2) or more members' terms expire at the same time, cannot cure the deficiency in the proportional representation requirement;
 - (b) Remove the fewest number of members necessary to bring the membership into compliance with the proportional representation requirement for the board;
 - (c) Identify the order in which the members were appointed to their current terms on the board and, beginning with the most recently appointed member who may be removed and replaced to bring the membership into compliance with the proportional representation requirement, remove the member or members according to the length of their tenure on the board, without taking into account any prior term of service on the board by the member;
 - (d) Provide any member proposed to be removed with the following:
 - 1. Written notice, at least seven (7) days prior to the member's removal from the board, stating the statutory proportional representation requirement that the member does not satisfy; and
 - 2. An opportunity during the seven (7) day notice period for the member to voluntarily resign or to provide evidence to the Governor or other appointing authority that the member does satisfy the proportional representation requirement or that another member on the board who also does not satisfy the requirement has a shorter tenure than the member proposed to be removed;
 - (e) Replace any removed member with only those individuals who will bring the board into compliance with the proportional representation requirement; and
 - (f) Appoint any new member in the same manner as provided by law for the member being removed and to fill the remainder of the removed member's unexpired term.
- (4) For a board of trustees or board of regents specified in subsection (2)(a) of this section, the Governor may remove for cause all appointed members of the board and replace the entire appointed membership as follows:
- (a) The Governor shall notify, in writing, the board and the Council on Postsecondary Education that the entire appointed membership of the board should be removed for cause and shall specify the conduct warranting removal;

- (b) The board or its members shall have seven (7) days to voluntarily resign or to provide evidence to the Council on Postsecondary Education that the conduct of the board or of individual members does not warrant removal;
- (c) Within thirty (30) days after receipt of notice from the Governor, the Council on Postsecondary Education shall review the written notice, investigate the board and the conduct alleged to support removal, and make a nonbinding recommendation, in writing, to the Governor as to whether the appointed board membership should be removed, a copy of which shall also be provided to the Legislative Research Commission;
- (d) The Governor shall then make a determination, in writing, whether the entire appointed board membership should be removed and shall notify the members, the Council on Postsecondary Education, and the Legislative Research Commission of the determination; and
- (e) If the Governor's determination is to remove the entire appointed membership of the board, the Governor shall remove the members by executive order, and shall replace the members with new appointments according to the applicable statutes for the board of trustees or board of regents.

For the purposes of this subsection, the entire appointed membership of a board of trustees or board of regents may be removed for cause if the board is no longer functioning according to its statutory mandate as specified in the enabling statutes applicable to the board, or if the board membership's conduct as a whole constitutes malfeasance, misfeasance, incompetence, or gross neglect of duty, such that the conduct cannot be attributed to any single member or members.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 178, sec. 3, effective June 29, 2021. -- Amended 2017 Ky. Acts ch. 101, sec. 1, effective March 21, 2017. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 41, effective May 30, 1997. -- Amended 1996 Ky. Acts ch. 362, sec. 6, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 10, sec. 16, effective July 1, 1992. -- Amended 1990 Ky. Acts ch. 60, sec. 2, effective July 13, 1990; ch. 476, Pt. II, sec. 37, effective July 13, 1990; and ch. 504, sec. 5, effective July 13, 1990. -- Amended 1968 Ky. Acts ch. 152, sec. 28. -- Amended 1966 Ky. Acts ch. 255, sec. 67. -- Amended 1948 Ky. Acts ch. 25, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3750.