

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) 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;
 - (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 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 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: July 15, 2024

History: 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.