

1 AN ACT relating to reorganization.

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

3 ➔Section 1. KRS 41.410 is amended to read as follows:

- 4 (1) The Commonwealth Council on Developmental Disabilities is created within the
5 Department of the Treasury.
- 6 (2) The Commonwealth Council on Developmental Disabilities is established to
7 comply with the requirements of the Developmental Disabilities Act of 1984 and
8 any subsequent amendment to that act.
- 9 (3) The members of the Commonwealth Council on Developmental Disabilities shall
10 be appointed by the Governor to serve as advocates for persons with developmental
11 disabilities. The council shall be composed of twenty-six (26) members.
- 12 (a) Ten (10) members shall be representatives of: the principal state agencies
13 administering funds provided under the Rehabilitation Act of 1973 as
14 amended; the state agency that administers funds provided under the
15 Individuals with Disabilities Education Act (IDEA); the state agency that
16 administers funds provided under the Older Americans Act of 1965 as
17 amended; the single state agency designated by the Governor for
18 administration of Title XIX of the Social Security Act for persons with
19 developmental disabilities; higher education training facilities, each
20 university-affiliated program or satellite center in the Commonwealth; and the
21 protection and advocacy system established under Public Law 101-496. These
22 members shall represent the following:
- 23 1. Office of Vocational Rehabilitation;
 - 24 2. Office for the Blind;
 - 25 3. ~~Division of Exceptional Children, within the~~ Department of Education;
 - 26 4. Department for Aging and Independent Living;
 - 27 5. Department for Medicaid Services;

- 1 6. Department of Public Advocacy, Protection and Advocacy Division;
 - 2 7. University-affiliated programs;
 - 3 8. Local and nongovernmental agencies and private nonprofit groups
 - 4 concerned with services for persons with developmental disabilities;
 - 5 9. Department for Behavioral Health, Developmental and Intellectual
 - 6 Disabilities; and
 - 7 10. Department for Public Health, Division of Maternal and Child Health.
- 8 (b) At least sixty percent (60%) of the members of the council shall be composed
- 9 of persons with developmental disabilities or the parents or guardians of
- 10 persons, or immediate relatives or guardians of persons with mentally
- 11 impairing developmental disabilities, who are not managing employees or
- 12 persons with ownership or controlling interest in any other entity that receives
- 13 funds or provides services under the Developmental Disabilities Act of 1984
- 14 as amended and who are not employees of a state agency that receives funds
- 15 or provides services under this section. Of these members, five (5) members
- 16 shall be persons with developmental disabilities, and five (5) members shall
- 17 be parents or guardians of children with developmental disabilities or
- 18 immediate relatives or guardians of adults with mentally impairing
- 19 developmental disabilities who cannot advocate for themselves. Six (6)
- 20 members shall be a combination of individuals in these two (2) groups, and at
- 21 least one (1) of these members shall be an immediate relative or guardian of
- 22 an institutionalized or previously institutionalized person with a
- 23 developmental disability or an individual with a developmental disability who
- 24 resides in an institution or who previously resided in an institution.
- 25 (c) Members not representing principal state agencies shall be appointed for a
- 26 term of three (3) years. Members shall serve no more than two (2) consecutive
- 27 three (3) year terms. Members shall serve until their successors are appointed

1 or until they are removed for cause.

2 (d) The council shall elect its own chair, adopt bylaws, and operate in accordance
3 with its bylaws. Members of the council who are not state employees shall be
4 reimbursed for necessary and actual expenses. The Department of the
5 Treasury shall provide personnel adequate to ensure that the council has the
6 capacity to fulfill its responsibilities. The council shall be headed by an
7 executive director. If the executive director position becomes vacant, the
8 council shall be responsible for the recruitment and hiring of a new executive
9 director.

10 (4) The Commonwealth Council on Developmental Disabilities shall:

11 (a) Develop and implement the state plan as required by Part B of the
12 Developmental Disabilities Act of 1984, as amended, with a goal of
13 development of a coordinated consumer and family centered focus and
14 direction, including the specification of priority services required by that plan;

15 (b) Monitor, review, and evaluate, not less often than annually, the
16 implementation and effectiveness of the state plan in meeting the plan's
17 objectives;

18 (c) To the maximum extent feasible, review and comment on all state plans that
19 relate to persons with developmental disabilities;

20 (d) Submit to the Department of the Treasury and the Secretary of the United
21 States Department of Health and Human Services any periodic reports on its
22 activities as required by the United States Department of Health and Human
23 Services and keep records and afford access as the Department of the Treasury
24 finds necessary to verify the reports;

25 (e) Serve as an advocate for individuals with developmental disabilities and
26 conduct programs, projects, and activities that promote systematic change and
27 capacity building;

- 1 (f) Examine, not less than once every five (5) years, the provision of and need for
2 federal and state priority areas to address, on a statewide and comprehensive
3 basis, urgent needs for services, supports, and other assistance for individuals
4 with developmental disabilities and their families; and
- 5 (g) Prepare, approve, and implement a budget that includes amounts paid to the
6 state under the Developmental Disabilities Act of 1984, as amended, to fund
7 all programs, projects, and activities under that Act.

8 ➔Section 2. KRS 151B.230 is amended to read as follows:

- 9 (1) There is hereby established a nonprofit foundation to be known as the "Foundation
10 for Workforce Development." The purpose of the foundation shall be to supplement
11 public funding for technical education programs in order to expand existing skills
12 training programs.
- 13 (2) Funding for the foundation shall be obtained through contributions by the private
14 sector. The foundation shall be empowered to solicit and accept funds from the
15 private sector to be used to fund technical education programs especially designed
16 for business and industry. Contributors may specify that contributed funds be used
17 to improve the technical skill level of their employees.
- 18 (3) The foundation shall be governed by a board of trustees to be appointed by the
19 secretary of the Education and Workforce Development Cabinet based on
20 recommendations from business, industry, labor, education, and interested citizens.
21 Staff assistance for the board of trustees shall be provided by the Office of Career
22 and Technical Education *and Student Transition*.
- 23 (4) The foundation shall be attached to the Education and Workforce Development
24 Cabinet for administrative purposes.
- 25 (5) The foundation shall report its finances consistent with statutes and regulations
26 promulgated by the Finance and Administration Cabinet. An annual report shall be
27 made to the Interim Joint Committee on Appropriations and Revenue. This report

1 shall follow generally accepted accounting procedures and shall include a detail
2 reporting on all moneys acquired and expended.

3 ➔Section 3. KRS 156.027 is amended to read as follows:

4 (1) The following definitions shall apply to this section:

5 (a) "Alternative format" means any medium or format for the presentation of
6 instructional materials that is needed by a student with an individualized
7 education program or Section 504 Plan for a reading accommodation other
8 than standard print, including but not limited to Braille, large print, audio
9 recordings, digital text, and digital talking books;

10 (b) "Braille," "individualized education program," and "blind students" have the
11 same meaning as defined under KRS 158.281;

12 (c) "Comparable version" denotes that all elements of the print version are present
13 in the electronic version, including graphics with ALT tags though not
14 necessarily in the same order or format;

15 (d) "Legacy materials" means images and graphics requiring release and
16 permission from another source other than the publisher; and

17 (e) "Section 504 Plan" means a written statement developed for a student with a
18 disability that includes the provision of regular or special education and
19 related aids and services designed to meet individual educational needs in
20 accordance with the federal regulations issued under 34 C.F.R. sec. 104.33.

21 (2) The purpose of this section shall be to assure, to the extent feasible, that all students
22 with disabilities in the public schools kindergarten through grade twelve (12) who
23 require reading accommodations in accordance with an individualized education
24 program or Section 504 Plan, including but not limited to students who are blind,
25 visually impaired, or who have a specific learning disability as defined in KRS
26 157.200 or other disability affecting reading, shall have access to textbooks and
27 instructional materials as defined by administrative regulations of the Kentucky

1 Board of Education in alternative formats that are appropriate to their disability and
2 educational needs.

3 (3) Notwithstanding any other statute to the contrary, the Department of Education shall
4 give preferential procurement status to textbook and instructional materials from
5 publishers who make their materials available in alternative formats for use by
6 students with disabilities, or who can verify that an accessible format textbook or
7 instructional material is currently available from or is in the process of being created
8 by the American Printing House for the Blind, Recording for the Blind and
9 Dyslexic, or another authorized entity, as defined under 17 U.S.C. sec. 121 and who
10 commonly provide alternative format materials for use by students in Kentucky
11 schools. The Department of Education may assign additional procurement
12 preferences designed to ensure that students with disabilities have access to
13 appropriate alternative formats to meet their needs.

14 (4) Effective July 1, 2003, the Department of Education shall require to the extent
15 feasible any publisher of a textbook or program adopted for use in the public
16 schools in kindergarten through grade twelve (12) to furnish computer files or
17 electronic versions of the printed textbooks and instructional materials in formats
18 comparable to the printed version that are compatible with commonly used Braille
19 translation and speech synthesis software and include corrections and revisions as
20 may be necessary to assure clarity in presentation and use. Navigation within and
21 between files should be reasonably efficient so that the disabled learner is able to
22 fully utilize the material in a manner that yields the same result as the print version
23 affords a nondisabled learner. File format shall be limited to those formats that
24 allow for a comparable version that is readable with text and screen readers such as
25 HTML, XML, or other formats that meet the criteria stated in this subsection. For
26 extreme cases where ALT tags are not feasible, a tag may read, "This item is too
27 complicated to render with current technology." Legacy materials shall be exempt

1 from the criteria for this preference. These files shall be provided to the Department
2 of Education~~[Division of Exceptional Children Services]~~ and shall be provided at
3 the same time and in composition and form comparable with the printed version and
4 include corrections and revisions as may be necessary to assure clarity in
5 presentation and use. The Department of Education may define further requirements
6 regarding additional characteristics of digital files submitted in compliance with this
7 section as needed to provide appropriate alternative formats to meet the needs of
8 students with disabilities.

9 (5) The Department of Education shall require publishers to make digital files, together
10 with two (2) copies of the print version, available at no charge upon request to the
11 American Printing House for the Blind for production of accessible Braille and
12 other materials and to Recording for the Blind and Dyslexic or another authorized
13 entity, as defined under 17 U.S.C. sec. 121, for production of accessible audio
14 media, digital text, and digital talking books, which produce accessible format
15 materials based on selection and scheduling needs.

16 (6) Nothing in this section shall in any way lessen the obligation of the public schools
17 to provide for the instruction of blind students in the use of Braille in accordance
18 with KRS 158.282 nor lessen the provision of Braille textbooks for blind students
19 under KRS 156.476.

20 ➔Section 4. KRS 156.800 is amended to read as follows:

21 As used in KRS 156.800 to 156.860, unless the context indicates otherwise:

22 (1) "Appointing authority" means the commissioner of education or any person
23 authorized by the commissioner to act on behalf of the Office of Career and
24 Technical Education and Student Transition with respect to employee
25 appointments, position establishments, payroll documents, reemployment lists,
26 waiver requests, or other position actions. The designation shall be in writing and
27 signed by both the commissioner and the designee;

- 1 (2) "Base salary" means the compensation to which an employee is entitled under the
2 salary schedule adopted pursuant to the provisions of KRS 156.808(3)(h);
- 3 (3) "Board" means the Kentucky Technical Education Personnel Board established in
4 KRS 156.840;
- 5 (4) "Certified employees" means those employees who fill school or educational
6 assignments requiring the issuance of a certificate. These employees in the Office of
7 Career and Technical Education and Student Transition are subject to personnel
8 administration under KRS 156.800 to 156.860;
- 9 (5) "Class" means a group of positions sufficiently similar as to the duties performed,
10 scope of discretion and responsibility, minimum requirements of training, and other
11 characteristics that the same title and the same schedule of compensation have been
12 or may be applied to each position in the group;
- 13 (6) "Classified" means status as merit system employees under the provisions of KRS
14 Chapter 18A;
- 15 (7) "Continuing status" means the acquisition of tenure with all rights and privileges
16 granted by the provisions of KRS 156.800 to 156.860 which must be preceded by
17 four (4) years of successful employment;
- 18 (8) "Demotion" means a change in an employee's position to another class having less
19 discretion or responsibility;
- 20 (9) "Emergency appointment" means employment for a maximum period of sixty (60)
21 days without regard to the certification process for any position in the Office of
22 Career and Technical Education and Student Transition requiring certification or
23 its equivalent;
- 24 (10) "Employee" means a person regularly employed in a position in the Office of Career
25 and Technical Education and Student Transition for which compensation is on a
26 full-time or part-time basis;
- 27 (11) "Equivalent employees" means those employees with educational backgrounds

1 similar to certified personnel in the administration and conduct of educationally
2 related services. These employees in the Office of Career and Technical Education
3 and Student Transition shall be subject to personnel administration under KRS
4 156.800 to 156.860;

5 (12) "Hearing officer" means a member of the board, a person hired for this purpose by
6 personal service contract, or an assistant attorney general;

7 (13) "Index" means the percentage add-on in a salary structure which compensates for
8 the scope of discretion and responsibility of the position;

9 (14) "Initial probation" means the one (1) year period following initial appointment of
10 certified and equivalent employees under KRS 156.826 which requires special
11 observation and evaluation of a person's work and which must be passed
12 successfully before eligibility for renewal of limited status;

13 (15) "Limited status" means employment that is renewable on an annual basis;

14 (16) "Penalization" means actions including demotion, dismissal, suspension,
15 involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights
16 granted to state employees or other disciplinary actions;

17 (17) "Position" means employment involving duties requiring the services of one (1)
18 person;

19 (18) "Promotion" means changing an employee from a position in one (1) class to a
20 position in another class carrying a greater scope of discretion and responsibility;

21 (19) "Promotional probation" means the twelve (12) month period of service following
22 the promotion of an employee with continuing status which must be successfully
23 completed in order for the employee to remain in the position;

24 (20) "Reemployment" means the rehiring of an employee with continuing status who has
25 been laid-off;

26 (21) "Reemployment list" means the separate list of names of persons who have been
27 separated from certified or equivalent positions in the Office of Career and

1 Technical Education *and Student Transition* by reason of lay-off. Reemployment
2 lists shall be used as provided by the provisions of KRS 156.830;

3 (22) "Reinstatement" means the restoration of a certified or equivalent employee who
4 has resigned in good standing or who has been ordered reinstated by the board or a
5 court to a position in the former class or to a position of like status and pay;

6 (23) "Seasonal employees" means employees employed in a seasonal position. Seasonal
7 position means a position that is temporary, and which coincides with a particular
8 season or seasons of the year;

9 (24) "Temporary employee" means an employee appointed to a temporary position.
10 Temporary position means a position that is created for a definite period of time;

11 (25) "Transfer" means a movement of any certified or equivalent employee from one (1)
12 position to another having the same salary range and the same level of
13 responsibility; and

14 (26) "Unclassified employee" means any temporary or seasonal employee and any
15 employee in a policymaking position who shall be exempt from the state service
16 under KRS Chapter 18A and who is employed in the Office of Career and
17 Technical Education *and Student Transition* under KRS 156.800 to 156.860.

18 ➔Section 5. KRS 156.802 is amended to read as follows:

19 (1) The Office of Career and Technical Education *and Student Transition* is hereby
20 created within the Department of Education. The office shall consist of those
21 administrative bodies and employees provided by or appointed by the commissioner
22 of education pursuant to KRS 156.010.

23 (2) The commissioner of education may appoint an assistant, pursuant to KRS 156.010,
24 and delegate authority to the assistant regarding the Office of Career and Technical
25 Education *and Student Transition*.

26 (3) The Department of Education shall have the responsibility for all administrative
27 functions of the state in relation to the management, control, and operation of state-

1 operated secondary area vocational education and technology centers. When
2 appropriate, the Department of Education shall provide education training programs
3 through contracts with private business and industries. These programs may be on a
4 shared cost basis or on a total cost recovery basis.

5 (4) The commissioner of education shall have the authority to enter into agreements or
6 contracts with other government or education agencies, including local school
7 districts, in order to carry out services under the office's jurisdiction.

8 (5) (a) Secondary area vocational education and technology centers shall be operated
9 in compliance with program standards established by the Kentucky Board of
10 Education. Principals, counselors, and teaching staff shall meet the
11 qualifications and certification standards for all secondary vocational
12 personnel as established by the Educational Professional Standards Board.

13 (b) The Kentucky Board of Education shall be the eligible agency solely
14 designated for the purpose of developing and approving state plans required
15 by state or federal laws and regulations as prerequisites to receiving federal
16 funds for vocational-technical or technology education. The Kentucky Board
17 of Education shall involve representatives from all eligible recipient
18 categories in the development of the required plans.

19 (c) In accordance with 20 U.S.C. sec. 2302(12), the Kentucky Board of Education
20 is hereby designated to be the "eligible agency" that is the sole state agency
21 responsible for the administration of vocational and technical education and
22 the supervision of the administration of vocational and technical education.

23 (6) (a) Except for the duties that the Kentucky Board of Education must retain
24 pursuant to 20 U.S.C. sec. 2341, the Kentucky Board of Education shall be
25 authorized to delegate all of the other duties and responsibilities of the eligible
26 agency to the Office of Career and Technical Education **and Student**
27 **Transition** within the Department of Education, including but not limited to

1 the administration, operation, and supervision of the Perkins program and the
2 authority to receive, hold, and disburse funds awarded under the state plan.

3 (b) The Kentucky Board of Education shall delegate to the Kentucky Workforce
4 Investment Board the state leadership activities referred to in 20 U.S.C. sec.
5 2344 to be conducted in accordance with the required and permissible uses of
6 funds specified in the Carl D. Perkins Career and Technical Education Act of
7 2006 and subsequent amendments thereto. The maximum amount of funds
8 allowed by 20 U.S.C. sec. 2322(a)(2) shall be reserved and made available for
9 state leadership activities.

10 (7) The commissioner of education shall be permitted to enter into memorandums of
11 agreement with individuals on a year-to-year basis to fill positions in hard-to-find
12 teaching specialties. The agreements and compensation for hard-to-find teaching
13 specialties shall be approved by the commissioner of education and shall not be
14 subject to the provisions of KRS Chapter 45A. All agreements shall be filed with
15 the secretary of the Finance and Administration Cabinet.

16 (8) The commissioner of education shall, from time to time, prepare or cause to be
17 prepared any bulletins, programs, outlines of courses, placards, and courses of study
18 deemed useful in the promotion of the interests of technical and vocational
19 education.

20 ➔Section 6. KRS 156.804 is amended to read as follows:

21 The Office of Career and Technical Education *and Student Transition* shall have the
22 following organizational structure:

23 (1) The commissioner of education shall appoint an assistant pursuant to KRS 12.050
24 and 156.010 and assign duties as appropriate;

25 (2) The appointing authority shall appoint an ombudsman pursuant to KRS 12.050 and
26 specify his or her functions and duties; and

27 (3) The Kentucky Technical Education Personnel Board, pursuant to KRS 156.840,

1 shall be attached to the Department of Education for administrative purposes.

2 ➔Section 7. KRS 156.808 is amended to read as follows:

- 3 (1) The Kentucky Board of Education shall promulgate, by administrative regulations,
4 personnel policies and procedures for all full-time and part-time unclassified
5 employees, certified and equivalent staff, including administrative, teaching, and
6 supervisory staff in the Office of Career and Technical Education *and Student*
7 *Transition* central office and state-operated vocational facilities. All other staff
8 shall remain under the authority of the Kentucky Personnel Cabinet and KRS
9 Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel
10 system shall transfer accrued annual, compensatory, and sick leave.
- 11 (2) As provided in KRS 156.800 to 156.860, the Kentucky Board of Education shall
12 promulgate administrative regulations for the administration of a personnel system
13 in the Office of Career and Technical Education *and Student Transition* which are
14 consistent with the provisions of KRS 156.800 to 156.860 and with federal
15 standards for state government agencies receiving federal grants.
- 16 (3) The Kentucky Board of Education shall promulgate administrative regulations for
17 full-time and part-time certified and equivalent staff governing:
- 18 (a) Establishment and abolishment of positions, including a prohibition against
19 eliminating funding for or abolishment of a teaching position at a state-
20 operated secondary area vocational education and technology center during a
21 school year in which students are enrolled in the program;
 - 22 (b) Applications;
 - 23 (c) Classification and compensation plans;
 - 24 (d) Incentive programs;
 - 25 (e) Selection of employees;
 - 26 (f) Types of appointments;
 - 27 (g) Attendance, including hours of work, compensatory time, and annual, court,

- 1 military, sick, voting, and special leaves of absence;
- 2 (h) Preparation, maintenance, and revision of a position classification plan and an
3 equitable salary schedule for certified and equivalent staff based on
4 qualifications, experience, and responsibilities;
- 5 (i) Extent and duration of the state-operated area vocational education and
6 technology centers' school term, use of school days, and extended
7 employment;
- 8 (j) Employee evaluations;
- 9 (k) Programs to improve the work effectiveness of employees including staff
10 development;
- 11 (l) Demotion;
- 12 (m) Dismissal;
- 13 (n) Lay-offs;
- 14 (o) Suspensions and other disciplinary measures;
- 15 (p) Probationary periods, limited employment status, and continuing employment
16 status;
- 17 (q) Promotion;
- 18 (r) Transfer;
- 19 (s) Appeals; and
- 20 (t) Employee grievances and complaints.
- 21 (4) (a) Administrative regulations promulgated by the Kentucky Board of Education
22 shall comply with the provisions of KRS 156.800 to 156.860 and KRS
23 Chapter 13A and shall have the force and effect of law.
- 24 (b) Administrative regulations promulgated by the Kentucky Board of Education
25 shall not expand or restrict rights granted to, or duties imposed upon,
26 employees and administrative bodies by the provisions of KRS 156.800 to
27 156.860.

- 1 (c) No administrative body other than the Kentucky Board of Education shall
2 promulgate administrative regulations governing the subject matters specified
3 in this section.
- 4 (d) Policies and procedures for the implementation of administrative regulations
5 shall be developed by the Department of Education.
- 6 (5) The commissioner of education shall be the appointing authority with respect to all
7 personnel actions for the Office of Career and Technical Education **and Student**
8 **Transition**. The commissioner may authorize a designee to act on behalf of the
9 agency with respect to employee appointments, position establishments, payroll
10 documents, reemployment lists, waiver requests, or other position actions. Any
11 personnel designation shall be in writing. Authority to employ personnel may be
12 delegated to the vocational school management by the commissioner. Any
13 recommendation for employment from the local level shall be based on guidelines
14 promulgated by the commissioner of education and shall be contingent upon
15 confirmation by the commissioner of education.
- 16 (6) The Kentucky Board of Education shall promulgate other administrative regulations
17 to govern proceedings which relate to certified and equivalent employees and which
18 shall provide for:
- 19 (a) The procedures to be utilized by the Kentucky Technical Education Personnel
20 Board in the conduct of hearings, consistent with KRS Chapter 13B;
- 21 (b) Discharge, as provided by this section;
- 22 (c) Imposition, as a disciplinary measure, of a suspension from service without
23 pay for up to thirty (30) working days and, in accordance with the provisions
24 of KRS 156.820, for the manner of notification of the employee of the
25 discipline and right of appeal;
- 26 (d) Promotions which shall give appropriate consideration to the applicant's
27 qualifications, record of performance, and conduct;

- 1 (e) Supplementary information for the salary schedule for certified and equivalent
2 staff including teachers, counselors, administrators, managers, and educational
3 consultants in state-operated vocational technical facilities, field offices, and
4 central office in the Office of Career and Technical Education and Student
5 Transition that shall provide uniformity, recognition of education, teaching,
6 and supervisory experience and use as a base the average salary paid to
7 beginning classroom teachers by all public schools in the state for personnel
8 with comparable qualifications and experience. Indexes may be incorporated
9 in the compensation plan for administrative responsibilities. The salary
10 schedule shall be computed annually, and shall be submitted to and approved
11 by the Governor;
- 12 (f) Reemployment of laid-off employees in accordance with the provisions of
13 KRS 156.800 to 156.860;
- 14 (g) Establishment of a plan for resolving employee grievances and complaints.
15 The plan shall not restrict rights granted employees by the provisions of KRS
16 156.800 to 156.860; and
- 17 (h) Any other administrative regulations not inconsistent with this chapter and
18 KRS Chapter 13A proper and necessary for its enforcement.
- 19 (7) The Department of Education shall make investigations, either on petition of a
20 citizen, taxpayer, interested party, or as deemed necessary by the commissioner,
21 concerning the enforcement and effect of KRS 156.808, 156.810, 156.812, 156.814,
22 156.816, 156.818, 156.820, 156.822, 156.824, 156.826, 156.828, 156.830, 156.832,
23 156.834, 156.836 , and 156.838, shall require observance of the provisions and the
24 administrative regulations promulgated pursuant to the provisions of KRS 156.800
25 to 156.860 and KRS Chapter 13A, and shall make investigation as requested by the
26 General Assembly or the Governor and to report thereon.
- 27 (8) The Kentucky Board of Education shall promulgate administrative regulations,

- 1 pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or
2 equivalent employees.
- 3 (9) The Kentucky Technical Education Personnel Board shall hear appeals from
4 applicants for positions or from certified, equivalent, and unclassified employees
5 who have been dismissed, demoted, suspended, or otherwise penalized for cause.
6 Effective August 15, 2000, appeals from assistants and secretaries in the Office of
7 Career and Technical Education *and Student Transition* attached to policymaking
8 positions shall be governed by KRS 18A.095. The State Personnel Board,
9 established in KRS 18A.045, shall hear appeals that are pending as of August 15,
10 2000, from assistants and secretaries attached to policymaking positions in the
11 Office of Career and Technical Education *and Student Transition*.
- 12 (10) The Kentucky Technical Education Personnel Board may, any statute to the
13 contrary notwithstanding, delegate the conduct of the hearing and the rendition of a
14 recommended order to the full board, to a panel of the board, or to a hearing officer,
15 relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which
16 the board is empowered or directed, by KRS 156.800 to 156.860 or any other
17 chapter, to conduct, hear, or make; provided, however, that the full board as
18 provided by statute, makes the final order, based upon the evidence submitted.
- 19 (11) The Kentucky Board of Education shall promulgate administrative regulations,
20 pursuant to KRS Chapter 13A, governing the unclassified service including the
21 preparation and maintenance of a salary schedule and other administrative
22 regulations authorized by KRS 156.800 to 156.860.
- 23 (12) The annual percentage salary increment for all certified and equivalent employees
24 subject to the personnel system established under KRS 156.800 to 156.860 shall be
25 at least equal to that funded and provided for other elementary and secondary
26 teachers.
- 27 (13) The positions of employees who are transferred, effective July 1, 1998, from the

1 former Cabinet for Workforce Development to the Kentucky Community and
2 Technical College System shall be abolished and the employees' names removed
3 from the roster of state employees. Employees who are transferred, effective July 1,
4 1998, to the Kentucky Community and Technical College System under KRS
5 Chapter 164 shall have the same benefits and rights as they had under KRS Chapter
6 18A and have under KRS 164.5805; however, they shall have no guaranteed
7 reemployment rights in KRS 156.800 to 156.860 or KRS Chapter 18A personnel
8 systems. An employee who seeks reemployment in a state position under KRS
9 156.800 to 156.860 or KRS Chapter 18A shall have years of service in the
10 Kentucky Community and Technical College System counted toward years of
11 experience for calculating benefits and compensation.

12 ➔Section 8. KRS 156.812 is amended to read as follows:

13 (1) All certified, equivalent, and unclassified employees in the Office of Career and
14 Technical Education and Student Transition shall be:

15 (a) Provided the same health insurance coverage as all other state government
16 employees provided in KRS 18A.225;

17 (b) Eligible to participate in the deferred compensation system provided for all
18 state government employees by KRS 18A.250 to 18A.265;

19 (c) Provided the same life insurance coverage provided all state employees
20 pursuant to KRS 18A.205 to 18A.215;

21 (d) Reimbursed for all reasonable and necessary travel expenses and
22 disbursements incurred or made pursuant to KRS 45.101 in the performance
23 of their official duties; no part of the reimbursement shall be included in or
24 accounted as a part of their salaries;

25 (e) Ensured equal employment opportunity regardless of race, color, religion,
26 national origin, disability, sex, or age; and

27 (f) Given those holidays and rights granted state employees pursuant to KRS

1 18A.190.

2 (2) Employees under the jurisdiction of the former Department for Technical Education
3 who are members of a state retirement system as of June 30, 1990, shall remain in
4 their respective retirement systems. All new certified and equivalent employees
5 hired by the office shall be placed in the Kentucky Teachers' Retirement System.

6 ➔Section 9. KRS 156.814 is amended to read as follows:

7 (1) The records of the Office of Career and Technical Education **and Student**
8 **Transition** shall be public records and shall be open to public inspection, as
9 provided in KRS 61.870 to 61.884.

10 (2) (a) A personnel file shall be maintained by the Department of Education for each
11 employee. The files maintained by the Department of Education shall be the
12 official personnel file for the employees.

13 (b) Each file shall include but not be limited to the employee's name, address, title
14 of positions held, classifications, rates of compensation, and all changes in
15 status, including evaluations, promotions, demotions, lay-offs, transfers,
16 disciplinary actions, commendations, and awards. Each file shall contain the
17 complete record and supporting documentation for each personnel action.

18 (c) When an employee is reprimanded for misconduct, other infraction, or failure
19 to perform duties in a proper or adequate manner, the supervising employee
20 taking the action shall document the action in detail, and shall provide the
21 employee with a copy of the documentation. The supervising employee shall
22 inform the employee of his or her right to prepare a written response to the
23 action taken after the employee has reviewed the written documentation
24 prepared by the supervising employee. The employee's response shall be
25 attached to the documentation prepared by the supervising employee. The
26 supervising employee shall place a copy of the documentation and response in
27 the employee's personnel file and shall transmit a copy to be placed in the

1 central office personnel file of the employee. The supervising employee shall
2 notify the employee that copies of the documentation and the response
3 provided for in this subsection have been placed in the employee's personnel
4 files.

5 (3) Upon written request, an employee shall have the right to examine his or her
6 personnel file. An employee may comment in writing on any item in the file. The
7 comments shall be made a part of the file and shall be attached to the specific record
8 or document to which they pertain.

9 (4) No public agency, as defined by KRS 61.870, and no officer or employee shall
10 deny, abridge, or impede the exercise of the rights granted in any manner by this
11 section and by KRS 61.878.

12 ➔Section 10. KRS 156.816 is amended to read as follows:

13 Except as provided by the provisions of KRS 156.800 to 156.860, the appointing
14 authority or designee for the Office of Career and Technical Education **and Student**
15 **Transition** may refuse to consider an applicant for a certified or equivalent position or,
16 after consideration, may disqualify the applicant or may remove an employee already
17 appointed if:

- 18 (1) It is found that the person did not maintain certification or that certification has been
19 revoked for the position;
- 20 (2) The person is unable to perform the duties of the position;
- 21 (3) The person made a false statement of material fact in the application;
- 22 (4) The application was not submitted correctly or within the prescribed time limits;
- 23 (5) The person has been convicted of a felony within the preceding five (5) years and
24 has not had civil rights restored or has not been pardoned by the Governor;
- 25 (6) The person has been convicted of a job related misdemeanor, except that
26 convictions for violations of traffic regulations shall not constitute grounds for
27 disqualification;

- 1 (7) The person has previously been dismissed from a position in his department for
2 cause or has resigned while charges for dismissal for cause of which the person had
3 knowledge were pending; or
- 4 (8) The person has otherwise violated the provisions of KRS 156.800 to 156.860.
- 5 ➔Section 11. KRS 156.820 is amended to read as follows:
- 6 (1) All certified and equivalent employees who previously held merit status under KRS
7 Chapter 18A shall become continuing status employees in the Office of Career and
8 Technical Education *and Student Transition*.
- 9 (2) Prior to dismissal, an employee with continuing status shall be notified in writing of
10 the intent to dismiss. The notice shall also state:
- 11 (a) The specific reasons for dismissal including:
- 12 1. The statutory or regulatory violation;
- 13 2. The specific action or activity on which the intent to dismiss is based;
- 14 3. The date, time, and place of the action or activity; and
- 15 4. The name of the parties involved; and
- 16 (b) That the employee has the right to appear personally, or with counsel if
17 counsel has been retained, to reply to the appointing authority or a designee.
- 18 (3) The Office of Career and Technical Education *and Student Transition* shall
19 prescribe and distribute a form to be completed and forwarded by an employee who
20 wishes to appear before the appointing authority or a designee. The form shall be
21 attached to every notice of intent to dismiss, and shall contain written instructions
22 explaining:
- 23 (a) The right granted an employee under the provisions of this section relating to
24 pretermination hearings; and
- 25 (b) The time limits and procedures to be followed by all parties in pretermination
26 hearings.
- 27 (4) No later than five (5) working days after receipt of the notice of intent to dismiss,

1 excluding the day of receipt of notice, the employee may request to appear,
2 personally or with counsel if counsel is retained, to reply to the appointing authority
3 or a designee.

4 (5) The appearance shall be held six (6) working days after receipt of an employee's
5 request to appear before the appointing authority or a designee, excluding the day
6 the employee's request is received, unless the employee and the appointing authority
7 or a designee agree to a later date.

8 (6) No later than five (5) working days after the employee appears before the
9 appointing authority or a designee, excluding the day of the appearance, the
10 appointing authority or a designee shall:

11 (a) Determine whether to dismiss the employee or to alter, modify, or rescind the
12 intent to dismiss; and

13 (b) Notify the employee in writing of the decision.

14 (7) If the appointing authority or a designee determines that the employee shall be
15 dismissed, the employee shall be notified in writing of:

16 (a) The effective date of dismissal or other penalization;

17 (b) The specific reason for the action, including:

18 1. The statutory or regulatory violation;

19 2. The specific action or activity on which the dismissal is based;

20 3. The date, time, and place of the action or activities; and

21 4. The names of the parties involved; and

22 (c) That the employee may appeal the dismissal to the Kentucky Technical
23 Education Personnel Board within thirty (30) days after receipt of this
24 notification, excluding the day the notice is received.

25 (8) A certified or equivalent employee with continuing status who is demoted or
26 suspended shall be notified in writing of:

27 (a) The demotion or suspension;

- 1 (b) The effective date of the demotion or suspension;
- 2 (c) The specific reason for the action including:
- 3 1. The statutory or regulatory violation;
- 4 2. The specific action or activity on which the demotion or suspension is
- 5 based;
- 6 3. The date, time, and place of the action or activity; and
- 7 4. The name of the parties involved; and
- 8 (d) That the employee has the right to appeal to the Kentucky Technical
- 9 Education Personnel Board within thirty (30) days, excluding the day of
- 10 receipt of notification.
- 11 (9) Any employee or applicant for employment may appeal to the board on the grounds
- 12 that the right to inspect or copy records, including preliminary and other supporting
- 13 documentation, relating to the employee has been denied, abridged, or impeded.
- 14 The board shall conduct a hearing to determine if the records related to the
- 15 employee or applicant, and if the right to inspect or copy was denied, abridged, or
- 16 impeded. If the board determines that the records related to the employee and that
- 17 the right to inspect or copy the records has been denied, abridged, or impeded, the
- 18 board shall order that the records be made available for inspection and copying.
- 19 (10) Any certified, equivalent, or unclassified employee may appeal an action alleged to
- 20 be based on discrimination due to race, color, religion, national origin, sex,
- 21 disability, or age to the board. Nothing in this section shall be construed to preclude
- 22 any employee from filing with the Kentucky Commission on Human Rights a
- 23 complaint alleging discrimination on the basis of race, color, religion, national
- 24 origin, sex, disability, or age in accordance with KRS Chapter 344.
- 25 (11) (a) Appeals to the Kentucky Technical Education Personnel Board shall be in
- 26 writing on an appeal form prescribed by the Office of Career and Technical
- 27 Education *and Student Transition*. Appeal forms shall be available at the

1 employee's place of work. The Office of Career and Technical Education ***and***
2 ***Student Transition*** shall be responsible for the distribution of the forms.

3 (b) The appeal form shall be attached to any notice, or copy of the notice, of
4 dismissal, demotion, suspension, involuntary transfer, or other penalization, or
5 notice of any other action an employee may appeal under the provisions of this
6 section.

7 (c) Upon receipt of the appeal by the board, the appointing authority or a designee
8 shall be notified, and the board shall schedule a hearing that shall be
9 conducted in accordance with KRS Chapter 13B.

10 (12) (a) Except as provided in this section, an appeal shall be decided by the board
11 only after a hearing. The board shall not deny, reject, or sustain an appeal, or
12 make any other determination relating to an appeal, except after a hearing is
13 conducted pursuant to the provisions of this section and KRS Chapter 13B.

14 (b) The board may deny a hearing to an employee who has failed to file an appeal
15 over which the board has jurisdiction or within the time prescribed by this
16 section and to an unclassified employee who has failed to state the cause for
17 dismissal. The board shall notify the employee of its denial in writing and
18 shall inform the employee of his or her right to appeal the denial under the
19 provisions of KRS 156.822.

20 (c) Any investigation by the board of any matter related to an appeal filed by an
21 employee shall be conducted only upon notice to the employee, the
22 employee's counsel, and the appointing authority. All parties to the appeal
23 shall have access to information produced by the investigations and the
24 information shall be presented at the hearing. Any party to the hearing shall be
25 permitted an adequate opportunity to rebut or comment upon the information.

26 (13) Each appeal shall be decided individually, unless otherwise agreed by the parties
27 and the board. The board shall not:

- 1 (a) Employ class action procedures; or
- 2 (b) Conduct test representative cases.
- 3 (14) Board members shall abstain from public comment about a pending or impending
- 4 proceeding before the board. This shall not prohibit board members from making
- 5 public statements in the course of their official duties or from explaining for public
- 6 information the procedures of the board.
- 7 (15) (a) If the board finds that the action complained of was taken by the appointing
- 8 authority or designee in violation of laws prohibiting favor for, or
- 9 discrimination against, or bias with respect to political or religious opinions or
- 10 affiliations or ethnic origin, or in violation of laws prohibiting discrimination
- 11 because of the individual's sex, age, or disability, the appointing authority or
- 12 designee shall immediately reinstate the employee to his or her former
- 13 position or a position of like status and pay, without loss of pay for the period
- 14 of penalization, or otherwise make the employee whole;
- 15 (b) If the board finds that the action complained of was taken without just cause,
- 16 the board shall order the immediate reinstatement of the employee to his or
- 17 her former position or a position of like status and pay, without loss of pay for
- 18 the period of penalization, or otherwise make the employee whole;
- 19 (c) If the board finds that the action taken by the appointing authority was
- 20 excessive or erroneous in view of all the surrounding circumstances, the board
- 21 shall alter, modify, or rescind the disciplinary action; and
- 22 (d) In all other cases, the board shall rescind the action taken or grant other relief
- 23 to which the employee is entitled.
- 24 (16) If a final order of the board is appealed, a court shall award reasonable attorney's
- 25 fees to an employee who prevails by a final adjudication on the merits as provided
- 26 by KRS 453.260. The award shall not include attorney's fees attributable to the
- 27 hearing before the board.

1 ➔Section 12. KRS 156.824 is amended to read as follows:

- 2 (1) (a) When a certified, equivalent, or unclassified employee has been finally
3 ordered reinstated without loss of pay, pursuant to the provisions of KRS
4 156.822, the board shall forward a certified copy of the order to the
5 Department of Education. The department shall process proper payment to the
6 employee for the period of suspension, the payment to be made out of the
7 agency's appropriations. If no funds or insufficient funds are available in the
8 agency's appropriations, then payment shall be made out of the judgments
9 section of the general fund of the biennial state budget.
- 10 (b) Gross moneys which are earned by the employee from other sources during
11 the period of suspension shall set off against the gross sum due the employee,
12 to the extent that the moneys were earned in a number of hours comparable to
13 the length of time the employee would have worked in the previous job where
14 dismissal occurred. The Department of Education~~executive director of the~~
15 ~~Office of Career and Technical Education~~ shall by regulation provide an
16 administrative procedure for determining reasonable earnings to be set off.
- 17 (c) All other deductions shall be deducted as required by law or by other state
18 regulation.
- 19 (2) (a) Both the employee's and employer's contributions to the Kentucky Teachers'
20 Retirement System or the Kentucky Employees Retirement System shall be
21 based upon the gross amount due the employee, before set-off or deduction,
22 except for set-off caused by earnings on which employee and employer
23 contributions to the Kentucky Teachers' Retirement System or the Kentucky
24 Employees Retirement System have been paid.
- 25 (b) Member and employer contributions paid into the system in which the
26 employee participated after dismissal shall be transferred to the system in
27 which the employee participated prior to illegal dismissal. In the event of a

1 difference in member or employer contribution rates between the retirement
2 system under which the member was covered prior to dismissal and the
3 retirement system of participation before reinstatement by the board, the
4 member and employer shall pay or receive a refund in order to adjust their
5 respective contribution to the appropriate rate for the system under which the
6 employee would have participated if dismissal had not occurred.

7 ➔Section 13. KRS 156.828 is amended to read as follows:

- 8 (1) The commissioner of education shall adopt written evaluation procedures for all
9 certified and equivalent employees of the Office of Career and Technical Education
10 and Student Transition. The procedures shall be based upon recommendations
11 received from a committee composed of equal numbers of teachers, counselors, and
12 administrators of the Office of Career and Technical Education and Student
13 Transition.
- 14 (2) Evaluations shall be in writing. An evaluator shall follow all statutory and
15 regulatory provisions for evaluation and shall present and explain all documentation
16 affecting an employee's evaluation, as well as discuss every aspect of performance
17 with the employee at each evaluation. The evaluator shall solicit the employee's
18 opinions and suggestions and shall advise the employee of the measures needed to
19 improve performance.
- 20 (3) Each full-time employee who has completed initial probation, and each part-time
21 employee who works over one hundred (100) hours each month and who has
22 completed initial probation shall be evaluated.
- 23 (4) (a) The first-line supervisor of an employee shall be the evaluator, providing the
24 period of supervision has been for a period of at least ninety (90) calendar
25 days.
- 26 (b) If the evaluator has supervised an employee for at least ninety (90) calendar
27 days and ceases to be the employee's first-line supervisor after such period of

1 time, the evaluation of the employee shall be at least five (5) workdays
2 prior to the day when the responsibility for supervision ceases.

3 (c) If the first-line supervisor ceases to be the supervisor of an employee due to
4 the suspension, demotion, or dismissal of the first-line supervisor, paragraph
5 (b) of this subsection shall not apply.

6 (d) If the first-line supervisor ceases to be an employee's supervisor because the
7 employee transfers, the first-line supervisor shall evaluate the employee prior
8 to transfer, if the period of supervision of the employee is not less than ninety
9 (90) calendar days prior to notification of transfer.

10 (5) Teachers and administrators in the state-operated secondary area vocational
11 education and technology centers shall be evaluated in the following categories and
12 appropriate criteria for each category shall be described in the written evaluation
13 procedure:

14 (a) School or classroom management, as appropriate;

15 (b) Job knowledge and skills;

16 (c) Instructional management;

17 (d) Employee conduct; and

18 (e) Professional responsibility.

19 (6) All other certified and equivalent staff in the field and in the central office shall be
20 evaluated in the following categories with appropriate criteria described in written
21 evaluation procedures:

22 (a) Job knowledge and skills;

23 (b) Quality of work;

24 (c) Employee conduct; and

25 (d) Professional responsibility.

26 (7) There shall be established by the commissioner of education an evaluation appeals
27 procedure for certified or equivalent personnel in the Office of Career and Technical

1 Education and Student Transition.

- 2 (8) (a) Within five (5) working days of an evaluation, an employee may request
3 reconsideration of the evaluation by the evaluator.
- 4 (b) Within five (5) working days of the reconsideration, an employee may:
- 5 1. Submit a written response to any evaluation which shall be attached to
6 the evaluation; and
- 7 2. Submit a written request for reconsideration of any evaluation to the
8 second-line supervisor.
- 9 (c) No later than fifteen (15) working days after receipt of the request, the second-
10 line supervisor shall inform the employee and the evaluator in writing of the
11 decision after the second-line supervisor has:
- 12 1. Obtained written statements from both the employee and the evaluator;
13 or
- 14 2. Met with the employee and the evaluator; and
- 15 3. Reviewed the evaluation process according to statutory or regulatory
16 requirements as well as the ratings.
- 17 (9) Within thirty (30) days after the employee has received the written decision of the
18 second-line supervisor, the employee may appeal an evaluation to the next level.
19 For the state-operated secondary area vocational education and technology centers,
20 this appeal shall go to the ombudsman for mediation. If not resolved at this level,
21 the employee may file an appeal with the appointing authority or designee who shall
22 make a final ruling. For other employees in the Office of Career and Technical
23 Education and Student Transition, this appeal shall go to the appropriate office
24 head and then to the appointing authority or designee.
- 25 (10) If an employee receives an overall unsatisfactory evaluation rating on two (2)
26 successive evaluations, the employee shall be:
- 27 (a) Demoted to a position commensurate with abilities; or

1 (b) Terminated.

2 ➔Section 14. KRS 156.830 is amended to read as follows:

- 3 (1) It shall be unlawful to coerce certified and equivalent employees who may be or
4 who are subject to lay-off to resign or retire in lieu of lay-off. Dismissals shall
5 comply with applicable statutes and lay-offs shall not be utilized as a method of
6 dismissal.
- 7 (2) In the same office, county, and job classification, temporary, emergency, limited
8 status, and probationary employees shall be laid-off before permanent full-time or
9 permanent part-time employees with continuing status. The Office of Career and
10 Technical Education and Student Transition shall not transfer positions, including
11 vacant positions, in order to circumvent the provisions of this section.
- 12 (3) If two (2) or more employees subject to lay-off in a lay-off plan submitted to the
13 commissioner of education have the same qualifications and similar performance
14 evaluations, the employee with the lesser seniority shall be laid-off first.
- 15 (4) An employee who is laid-off shall be placed on a reemployment list for the class of
16 position from which laid-off and for any class for which such employee is qualified.
- 17 (5) For a period of three (3) years, laid-off employees shall be considered before any
18 applicant from outside the Office of Career and Technical Education and Student
19 Transition, except another laid-off employee with more seniority who is already on
20 the list.
- 21 (6) For a period of three (3) years, a laid-off employee shall not be removed from the
22 list unless:
- 23 (a) The laid-off employee notifies the office in writing that he or she no longer
24 wishes to be considered for a position on the list;
- 25 (b) Two (2) written offers of appointment are declined, the offers to be for a
26 position of the same classification and salary, and located in the same county
27 or contiguous counties, as the position from which laid-off;

- 1 (c) Two (2) written offers to schedule an interview are made and the laid-off
2 employee fails to respond to a certified letter requesting the laid-off employee
3 to schedule an interview within ten (10) working days;
- 4 (d) The laid-off employee fails to report for an interview after notification in
5 writing at least ten (10) calendar days prior to the date of the interview;
- 6 (e) The laid-off employee cannot be located by postal authorities at the last
7 address provided; or
- 8 (f) The laid-off employee has willfully violated the provisions of KRS 156.800 to
9 156.860.
- 10 (7) When a laid-off employee has accepted a bona fide offer of appointment to any
11 position, effective on a specified date, the employee's name may be removed from
12 the list for all classes for which the maximum salary is the same as or less than that
13 of the class of appointment.
- 14 (8) When a laid-off employee is removed from the reemployment list, the employee
15 shall be notified in writing and shall be notified of the right to appeal to the board
16 under provisions of KRS 156.820.
- 17 ➔Section 15. KRS 156.832 is amended to read as follows:
- 18 (1) A lay-off of an employee with continuing status in the Office of Career and
19 Technical Education ***and Student Transition*** due to the abolition of a position, lack
20 of funds, or economic or employment trends resulting in a lack of work or a
21 material change in duties or organization shall comply with the provisions of this
22 section.
- 23 (2) Prior to the notification of lay-off and prior to the lay-off of an employee, the
24 Department of Education shall prepare a lay-off plan. The plan shall contain the
25 name of the employee and the reasons, in detail, for the lay-off. Upon approval of
26 the plan by the appointing authority or designee, the employee shall be notified of
27 the pending lay-off, and of:

- 1 (a) The reason for the lay-off;
- 2 (b) The procedures established by the provisions of KRS 156.830 and this section
- 3 for the lay-off of employees; and
- 4 (c) The rights granted employees subject to lay-off and to laid-off employees.
- 5 (3) (a) An employee subject to lay-off shall be considered for a vacant position
- 6 within the office of the same pay grade, level of duties, and responsibilities for
- 7 which the employee is qualified.
- 8 (b) If a vacancy does not exist, the employee shall be considered for any vacant
- 9 position within his office for which qualifications are held.
- 10 (4) If no position is available to an employee subject to lay-off under the procedure
- 11 established by subsection (3) of this section, the employee shall be notified of the
- 12 layoff in writing at least thirty (30) days prior to implementation of the lay-off.

13 ➔Section 16. KRS 156.840 is amended to read as follows:

- 14 (1) The Kentucky Technical Education Personnel Board is hereby established to
- 15 conduct personnel appeals from certified and equivalent employees in the Office of
- 16 Career and Technical Education and Student Transition under KRS 156.800 to
- 17 156.860. Appeals shall be conducted in accordance with the provisions established
- 18 in KRS Chapter 13B. The board shall be attached to the Department of Education
- 19 for administrative purposes.
- 20 (2) The Kentucky Technical Education Personnel Board shall be composed of five (5)
- 21 voting members, three (3) of whom shall be selected from employees within the
- 22 Department of Education, except no member shall be an employee within the Office
- 23 of Career and Technical Education and Student Transition. The remaining two (2)
- 24 members shall be teachers employed by the Office of Career and Technical
- 25 Education and Student Transition's~~Education's~~ Area Technology Centers. The
- 26 election of the teacher representatives may be conducted by written ballot, Internet
- 27 balloting, intranet balloting, or electronic mail. The teacher candidates may be

1 present when the balloting is tallied. All votes cast shall be tallied by an
2 independent entity.

3 (a) The Governor shall appoint the two (2) members elected by the teachers
4 employed by the Office of Career and Technical Education and Student
5 Transition's~~Education's~~ Area Technology Centers and the three (3)
6 members selected from employees within the Department of Education. All
7 members shall be appointed by the Governor to four (4) year terms, and each
8 term shall end on June 30 of the fourth year.

9 (b) Terms of new members or reappointed members shall begin on July 1 of the
10 year beginning their term. If a vacancy occurs during a term, the Governor
11 shall appoint a replacement to serve the remainder of the unexpired term
12 within thirty (30) days of the vacancy. The Governor shall select a
13 replacement from the group where the vacancy occurred. The manner of
14 selection for the replacement shall be the same as the manner of the original
15 selection.

16 (c) The members shall possess an understanding of the personnel system
17 established in KRS 156.800 to 156.860.

18 (d) A chair shall be elected annually by members of the board.

19 (3) The board shall meet as necessary to comply with time frames for conducting
20 personnel appeals under KRS Chapter 13B and KRS 156.800 to 156.860, and at
21 other times as deemed necessary by the chair of the board. For meetings of the
22 board, a majority of the voting members shall be present to constitute a quorum for
23 the transaction of business.

24 (4) The Office of Career and Technical Education and Student Transition shall
25 provide administrative, budgetary and support staff services for the board.

26 (5) Pursuant to KRS 156.010, employees of the Department of Education who serve as
27 members of the board shall not receive additional salary for serving as members on

1 the board. However, upon approval of the commissioner of education, board
2 members shall be entitled to reimbursement of actual and necessary expenses
3 incurred while performing their duties as an active member of the board.

4 (6) During personnel appeals conducted by the board, both parties shall be given the
5 opportunity to have a representative present at each step of the process.

6 ➔Section 17. KRS 156.842 is amended to read as follows:

7 The Office of Career and Technical Education ***and Student Transition*** shall have the
8 management and control of state-operated secondary area vocational education and
9 technology centers, and all programs and services operated in these centers.

10 ➔Section 18. KRS 156.844 is amended to read as follows:

11 (1) A local board of education may submit a request to the commissioner of education
12 to assume authority for the management and control of a state-operated secondary
13 vocational education and technology center. Upon agreement between the
14 commissioner of education and the local board of education for the transfer of a
15 state-operated secondary vocational education and technology center, all personnel,
16 equipment, and supplies shall be transferred to the local board of education and
17 shall be utilized for the operation of the locally operated vocational center.

18 (2) A certified employee who is affected by a transfer to the local board of education
19 under subsection (1) of this section shall be granted a one (1) year limited contract
20 by the local board of education and shall be employed on the local district salary
21 schedule. A classified employee shall be guaranteed employment equal to his or her
22 present status for at least one (1) complete school term. A transferred employee
23 shall be provided the benefits of comparable employees in the district and shall be
24 subject to all rules and policies of the local board of education, including but not
25 limited to disciplinary and personnel actions that are the same as those that may be
26 exercised by the district for any other employee in the district during a contract
27 period.

- 1 (3) A transferred employee who has accrued annual leave and compensatory time shall
2 be paid a lump sum for the accrued time at the effective date of the transfer by the
3 Department of Education. The employee shall be granted credit for accrued sick
4 leave up to the maximum allowed for transfers of teachers between school districts.
5 Sick leave credit shall be awarded to a classified employee based on the local board
6 policy. Any excess sick leave that a classified or certified employee has earned that
7 the district will not accept in the transfer may be requested to be held in escrow by
8 the appropriate state personnel system under KRS Chapter 18A or KRS 156.800 to
9 156.860, and the sick leave balance shall be restored to the employee if the
10 employee returns to a state government position.
- 11 (4) An employee who is to be transferred to a local board of education under provisions
12 of this section but who chooses not to accept a one (1) year limited contract with the
13 board shall be separated from the state system and the employee's position shall be
14 abolished. The employee may apply for any state position for which the employee is
15 qualified but shall not be granted priority over other applicants for a position
16 because the employee's position was abolished due to a transfer of the vocational
17 education and technology center. An employee who refuses a contract with the local
18 board shall be provided a lump-sum payment for accrued annual leave and
19 compensatory time, and the employee's sick leave balance shall be placed in escrow
20 by the appropriate state personnel system under KRS Chapter 18A or KRS 156.800
21 to 156.860. The sick leave balance shall be restored to the employee if the employee
22 returns to a state government position.
- 23 (5) A certified employee, other than a principal, who has earned continuing status in the
24 state certified personnel system under KRS 156.800 to 156.860 may be granted
25 tenure under the provisions of KRS 161.740(1)(c). A principal may be granted
26 tenure as a teacher, but the provisions relating to demotion of the principal under
27 KRS 161.765 shall apply.

1 (6) An employee of the Office of Career and Technical Education *and Student*
2 *Transition* who is transferred to the local school district and who occupies a
3 position covered by the Kentucky Teachers' Retirement System shall remain in the
4 Kentucky Teachers' Retirement System.

5 (7) After the effective date of the transfer, the local board of education shall receive
6 funding for the support of the local board of education center operations pursuant to
7 KRS 157.069. In addition, the local board of education shall receive one hundred
8 percent (100%) of the Support Education Excellence in Kentucky program funds
9 from the Department of Education that are generated from students enrolled in the
10 center.

11 ➔Section 19. KRS 156.846 is amended to read as follows:

12 (1) Notwithstanding KRS 156.808, 156.812, 156.814, 156.816, 156.820, and 156.826,
13 upon approval of the Kentucky Board of Education, a local board of education that
14 has operated an area vocational education and technical center for at least five (5)
15 years may relinquish authority for the management and control of the area
16 vocational education and technical center to the Kentucky Department of Education.
17 The local board of education shall transfer all personnel, equipment, and supplies to
18 the Office of Career and Technical Education *and Student Transition* within the
19 Kentucky Department of Education.

20 (2) A certified employee who is affected by a transfer to the Office of Career and
21 Technical Education *and Student Transition* under subsection (1) of this section
22 shall be granted the same status by the Office of Career and Technical Education
23 *and Student Transition* as he or she had at the close of employment with the local
24 board of education and shall be employed on the state salary schedule. A classified
25 employee shall be guaranteed employment equal to his or her status in the local
26 school district for at least one (1) complete school term. A transferred employee
27 shall be provided the benefits of comparable employees in the Office of Career and

1 Technical Education *and Student Transition* and shall be subject to all rules and
2 policies of the Office of Career and Technical Education *and Student Transition*,
3 including but not limited to disciplinary and personnel actions that are the same as
4 those that may be exercised by the office for any other employee in the
5 Commonwealth during a contract period.

6 (3) The employee shall be granted credit for accrued sick leave by the Office of Career
7 and Technical Education *and Student Transition* up to the maximum allowed for
8 transfers of teachers between school districts. The Office of Career and Technical
9 Education *and Student Transition* shall award sick leave credit to a classified
10 employee based on the sick leave accumulated in the local district. Any excess sick
11 leave that a classified or certified employee earned that had been held in escrow by
12 the appropriate state personnel system under KRS Chapter 18A or KRS 156.800 to
13 156.860 when the transfer was made to the local board of education shall be
14 restored to the employee.

15 (4) An employee who is to be transferred to the Office of Career and Technical
16 Education *and Student Transition* under provisions of this section but who chooses
17 not to accept a contract with the Commonwealth shall be separated from the state
18 system and the employee's position shall be abolished. The employee may apply for
19 any state position for which the employee is qualified but shall not be granted
20 priority over other applicants for a position because the employee's position was
21 abolished due to a transfer of the area vocational education and technical center. An
22 employee who refuses a contract with the Office of Career and Technical Education
23 *and Student Transition* shall have the employee's sick leave balance placed in
24 escrow by the state personnel system under KRS Chapter 18A or KRS 156.800 to
25 156.860. The sick leave balance shall be restored to the employee if the employee
26 returns to a state government position.

27 (5) A certified employee, other than a principal, who has earned continuing status in the

1 local school district under KRS 161.740(1), shall be granted continuing status under
2 the provisions of KRS 156.820. A principal may be granted continuing status as a
3 teacher, but the provisions relating to demotion of the principal under KRS 156.820
4 shall apply.

5 (6) An employee of a local board of education who is transferred to the Office of the
6 Career and Technical Education and Student Transition and who occupies a
7 position covered by the Kentucky Teachers' Retirement System shall remain in the
8 Kentucky Teachers' Retirement System.

9 (7) General fund moneys previously appropriated to a local board of education for
10 support of the area vocational education and technical center shall be appropriated
11 to the Department of Education.

12 ➔Section 20. KRS 156.856 is amended to read as follows:

13 Tuition and fees for secondary pupils enrolled in the state secondary area vocational
14 education and technology centers operated by the Office of Career and Technical
15 Education and Student Transition shall be free to all residents of Kentucky. The
16 Kentucky Board of Education shall fix the rate of tuition and fees for adults who are
17 enrolled in secondary programs in the state-operated area vocational education and
18 technology centers under its control. Adult students enrolled in full-time postsecondary
19 programs under the jurisdiction of the Kentucky Community and Technical College
20 System that are physically located in an area vocational education or technology center
21 shall pay the tuition as established by the Council on Postsecondary Education and fees as
22 established by the board of regents for the Kentucky Community and Technical College
23 System.

24 ➔Section 21. KRS 156.858 is amended to read as follows:

25 The commissioner of education may provide liability insurance for licensed and
26 nonlicensed motor vehicles owned or operated by the Office of Career and Technical
27 Education and Student Transition in vocational schools and centers. If the transportation

1 of members of the student bodies is let out under contract, the contract shall require the
2 contractor to carry an indemnity bond or liability insurance against negligence in such
3 amounts as the commissioner of education designates. In either case, the indemnity bond
4 or insurance policy shall be issued by a surety or insurance company authorized to
5 transact business in this state, and shall bind the company to pay any final judgment not
6 to exceed the limits of the policy rendered against the insured for loss or damage to
7 property of any student or other person, or death or injury of any student or other person.

8 →Section 22. KRS 157.360 is amended to read as follows:

9 (1) (a) In determining the cost of the program to support education excellence in
10 Kentucky, the statewide guaranteed base funding level, as defined in KRS
11 157.320, shall be computed by dividing the amount appropriated for this
12 purpose by the prior year's statewide average daily attendance.

13 (b) When determining the biennial appropriations for the program, the average
14 daily attendance for each fiscal year shall include an estimate of the number of
15 students graduating early under the provisions of KRS 158.142.

16 (2) Each district shall receive an amount equal to the base funding level for each pupil
17 in average daily attendance in the district in the previous year, except a district shall
18 receive an amount equal to one-half (1/2) of the state portion of the average
19 statewide per pupil guaranteed base funding level for each student who graduated
20 early under the provisions of KRS 158.142. Each district's base funding level shall
21 be adjusted by the following factors:

22 (a) The number of at-risk students in the district. At-risk students shall be
23 identified as those approved for the free lunch program under state and federal
24 guidelines. The number of at-risk students shall be multiplied by a factor to be
25 established by the General Assembly. Funds generated under this paragraph
26 may be used to pay for:

27 1. Alternative programs for students who are at risk of dropping out of

- 1 school before achieving a diploma; and
- 2 2. A hazardous duty pay supplement as determined by the local board of
3 education to the teachers who work in alternative programs with
4 students who are violent or assaultive;
- 5 (b) The number and types of exceptional children in the district as defined by
6 KRS 157.200. Specific weights for each category of exceptionality shall be
7 used in the calculation of the add-on factor for exceptional children; and
- 8 (c) Transportation costs. The per-pupil cost of transportation shall be calculated
9 as provided by KRS 157.370. Districts which contract to furnish
10 transportation to students attending nonpublic schools may adopt any payment
11 formula which assures that no public school funds are used for the
12 transportation of nonpublic students.
- 13 (3) Beginning with the 2015-2016 school year and each year thereafter, the General
14 Assembly shall annually allocate funds equal to one-half (1/2) of the state portion of
15 the average statewide per pupil guaranteed base funding level for each student who
16 graduated early under the provisions of KRS 158.142 the previous school year to
17 the Kentucky Higher Education Assistance Authority for deposit in the early
18 graduation scholarship trust fund.
- 19 (4) The program to support education excellence in Kentucky shall be fully
20 implemented by the 1994-95 school year.
- 21 (5) (a) Except for those schools which have implemented school-based decision
22 making, the commissioner of education shall enforce maximum class sizes for
23 every academic course requirement in all grades except in vocal and
24 instrumental music, and physical education classes. Except as provided in
25 subsection (6) of this section, the maximum number of pupils enrolled in a
26 class shall be as follows:
- 27 1. Twenty-four (24) in primary grades (kindergarten through third grade);

- 1 2. Twenty-eight (28) in grade four (4);
- 2 3. Twenty-nine (29) in grades five (5) and six (6);
- 3 4. Thirty-one (31) in grades seven (7) to twelve (12).
- 4 (b) Except for those schools which have implemented school-based decision
- 5 making, class size loads for middle and secondary school classroom teachers
- 6 shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.
- 7 (c) The commissioner of education, upon approval of the Kentucky Board of
- 8 Education, shall adopt administrative regulations for enforcing this provision.
- 9 These administrative regulations shall include procedures for a superintendent
- 10 to request an exemption from the Kentucky Board of Education when unusual
- 11 circumstances warrant an increased class size for an individual class. A
- 12 request for an exemption shall include specific reasons for the increased class
- 13 size with a plan for reducing the class size prior to the beginning of the next
- 14 school year. A district shall not receive in any one (1) year exemptions for
- 15 more classes than enroll twenty percent (20%) of the pupils in the primary
- 16 grades and grades four (4) through eight (8).
- 17 (d) In all schools the commissioner of education shall enforce the special
- 18 education maximum class sizes set by administrative regulations adopted by
- 19 the Kentucky Board of Education. A superintendent may request an
- 20 exemption pursuant to paragraph (c) of this subsection. A local school council
- 21 may request a waiver pursuant to KRS 156.160(2). An exemption or waiver
- 22 shall not be granted if the increased class size will impede any exceptional
- 23 child from achieving his individual education program in the least restrictive
- 24 environment.
- 25 (6) In grades four (4) through six (6) with combined grades, the maximum class size
- 26 shall be the average daily attendance upon which funding is appropriated for the
- 27 lowest assigned grade in the class. There shall be no exceptions to the maximum

1 class size for combined classes. In combined classes other than the primary grades,
2 no ungraded students shall be placed in a combined class with graded students. In
3 addition, there shall be no more than two (2) consecutive grade levels combined in
4 any one (1) class in grades four (4) through six (6). However, this shall not apply to
5 schools which have implemented school-based decision making.

6 (7) If a local school district, through its admission and release committee, determines
7 that an appropriate program in the least restrictive environment for a particular child
8 with a disability includes either part-time or full-time enrollment with a private
9 school or agency within the state or a public or private agency in another state, the
10 school district shall count as average daily attendance in a public school the time
11 that the child is in attendance at the school or agency, contingent upon approval by
12 the commissioner of education.

13 (8) Pupils attending a center for child learning and study established under an
14 agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating
15 average daily attendance, be considered as in attendance in the school district in
16 which the child legally resides and which is party to the agreement. For purposes of
17 subsection (1) of this section, teachers who are actually employees of the joint or
18 cooperative action shall be considered as employees of each school district which is
19 a party to the agreement.

20 (9) Program funding shall be increased when the average daily attendance in any
21 district for the first two (2) months of the current school year is greater than the
22 average daily attendance of the district for the first two (2) months of the previous
23 school year. The program funds allotted the district shall be increased by the percent
24 of increase. The average daily attendance in kindergarten is the kindergarten full-
25 time equivalent pupils in average daily attendance.

26 (10) If the average daily attendance for the current school year in any district decreases
27 by ten percent (10%) or more than the average daily attendance for the previous

1 school year, the average daily attendance for purposes of calculating program
2 funding for the next school year shall be increased by an amount equal to two-thirds
3 (2/3) of the decrease in average daily attendance. If the average daily attendance
4 remains the same or decreases in the succeeding school year, the average daily
5 attendance for purposes of calculating program funding for the following school
6 year shall be increased by an amount equal to one-third (1/3) of the decrease for the
7 first year of the decline.

8 (11) If the percentage of attendance of any school district shall have been reduced more
9 than two percent (2%) during the previous school year, the program funding allotted
10 the district for the current school year shall be increased by the difference in the
11 percentage of attendance for the two (2) years immediately prior to the current
12 school year less two percent (2%).

13 (12) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12)
14 months per year. Vocational agriculture teachers shall be responsible for the
15 following program of instruction during the time period beyond the regular
16 school term established by the local board of education: supervision and
17 instruction of students in agriculture experience programs; group and
18 individual instruction of farmers and agribusinessmen; supervision of student
19 members of agricultural organizations who are involved in leadership training
20 or other activity required by state or federal law; or any program of vocational
21 agriculture established by the ~~Division of Career and Technical Education in~~
22 ~~the~~ Department of Education. During extended employment, no vocational
23 agriculture teacher shall receive salary on a day that the teacher is scheduled to
24 attend an institution of higher education class which could be credited toward
25 meeting any certification requirement.

26 (b) Each teacher of agriculture employed shall submit an annual plan for summer
27 program to the local school superintendent for approval. The summer plan

1 shall include a list of tasks to be performed, purposes for each task, and time
2 to be spent on each task. Approval by the local school superintendent shall be
3 in compliance with the guidelines developed by the Department of Education.
4 The supervision and accountability of teachers of vocational agriculture's
5 summer programs shall be the responsibility of the local school
6 superintendent. The local school superintendent shall submit to the
7 commissioner of education a completed report of summer tasks for each
8 vocational agriculture teacher. Twenty percent (20%) of the approved
9 vocational agriculture programs shall be audited annually by the State
10 Department of Education to determine that the summer plan has been properly
11 executed.

12 (13) (a) In allotting program funds for home and hospital instruction, statewide
13 guaranteed base funding, excluding the capital outlay, shall be allotted for
14 each child in average daily attendance in the prior school year who has been
15 properly identified according to Kentucky Board of Education administrative
16 regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall
17 be reported monthly on forms provided by the Department of Education; and

18 (b) Pursuant to administrative regulations of the Kentucky Board of Education,
19 local school districts shall be reimbursed for home and hospital instruction for
20 pupils unable to attend regular school sessions because of short term health
21 impairments. A reimbursement formula shall be established by administrative
22 regulations to include such factors as a reasonable per hour, per child
23 allotment for teacher instructional time, with a maximum number of funded
24 hours per week, a reasonable allotment for teaching supplies and equipment,
25 and a reasonable allotment for travel expenses to and from instructional
26 assignments, but the formula shall not include an allotment for capital outlay.
27 Attendance shall be calculated pursuant to KRS 157.270 and shall be reported

1 annually on forms provided by the Department of Education.

2 (14) Except for those schools which have implemented school-based decision making
3 and the school council has voted to waive this subsection, kindergarten aides shall
4 be provided for each twenty-four (24) full-time equivalent kindergarten students
5 enrolled.

6 (15) Effective July 1, 2001, there shall be no deduction applied against the base funding
7 level for any pupil in average daily attendance who spends a portion of his or her
8 school day in a program at a state-operated career and technical education or
9 vocational facility.

10 (16) During a fiscal year, a school district may request that the Department of Education
11 recalculate its funds allocated under this section if the current year average daily
12 attendance for the twenty (20) day school month as defined in KRS 158.060(1) that
13 contains the most days within the calendar month of January exceeds the prior year
14 adjusted average daily attendance plus growth by at least one percent (1%). Any
15 adjustments in the allotments approved under this subsection shall be proportional
16 to the remaining days in the school year and subject to available funds under the
17 program to support education excellence in Kentucky.

18 (17) To calculate the state portion of the program to support education excellence in
19 Kentucky for a school district, the Department of Education shall subtract the local
20 effort required under KRS 157.390(5) from the calculated base funding under the
21 program to support education excellence in Kentucky, as required by this section.
22 The value of the real estate used in this calculation shall be the lesser of the current
23 year assessment or the prior year assessment increased by four percent (4%) plus the
24 value of current year new property. The calculation under this subsection shall be
25 subject to available funds.

26 (18) Notwithstanding any other statute or budget of the Commonwealth language to the
27 contrary, time missed due to shortening days for emergencies may be made up by

1 lengthening school days in the school calendar without any loss of funds under the
2 program to support education excellence in Kentucky.

3 ➔Section 23. KRS 161.220 is amended to read as follows:

4 As used in KRS 161.220 to 161.716 and 161.990:

- 5 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to
6 161.716 and 161.990 for payment of allowances to members;
- 7 (2) "Retirement allowance" means the amount annually payable during the course of his
8 natural life to a member who has been retired by reason of service;
- 9 (3) "Disability allowance" means the amount annually payable to a member retired by
10 reason of disability;
- 11 (4) "Member" means the commissioner of education, deputy commissioners, associate
12 commissioners, and all division directors in the State Department of Education,
13 employees participating in the system pursuant to KRS 196.167(3)(b)1., and any
14 full-time teacher or professional occupying a position requiring certification or
15 graduation from a four (4) year college or university, as a condition of employment,
16 and who is employed by public boards, institutions, or agencies as follows:
- 17 (a) Local boards of education;
- 18 (b) Eastern Kentucky University, Kentucky State University, Morehead State
19 University, Murray State University, Western Kentucky University, and any
20 community colleges established under the control of these universities;
- 21 (c) State-operated secondary area vocational education or area technology centers,
22 Kentucky School for the Blind, and Kentucky School for the Deaf;
- 23 (d) The Education Professional Standards Board, other public education agencies
24 as created by the General Assembly, and those members of the administrative
25 staff of the Teachers' Retirement System of the State of Kentucky whom the
26 board of trustees may designate by administrative regulation;
- 27 (e) Regional cooperative organizations formed by local boards of education or

- 1 other public educational institutions listed in this subsection, for the purpose
2 of providing educational services to the participating organizations;
- 3 (f) All full-time members of the staffs of the Kentucky Association of School
4 Administrators, Kentucky Education Association, Kentucky Vocational
5 Association, Kentucky High School Athletic Association, Kentucky Academic
6 Association, and the Kentucky School Boards Association who were members
7 of the Kentucky Teachers' Retirement System or were qualified for a position
8 covered by the system at the time of employment by the association in the
9 event that the board of directors of the respective association petitions to be
10 included. The board of trustees of the Kentucky Teachers' Retirement System
11 may designate by resolution whether part-time employees of the petitioning
12 association are to be included, except as limited by KRS 161.612. The state
13 shall make no contributions on account of these employees, either full-time or
14 part-time. The association shall make the employer's contributions, including
15 any contribution that is specified under KRS 161.550. The provisions of this
16 paragraph shall be applicable to persons in the employ of the associations on
17 or subsequent to July 1, 1972;
- 18 (g) Employees of the Council on Postsecondary Education who were employees
19 of the Department for Adult Education and Literacy and who were members
20 of the Kentucky Teachers' Retirement System at the time the department was
21 transferred to the council pursuant to Executive Order 2003-600;
- 22 (h) The Office of Career and Technical Education and Student Transition};
23 ~~except that the executive director shall not be a member~~};
- 24 (i) The Office of Vocational Rehabilitation;
- 25 (j) The Kentucky Educational Collaborative for State Agency Children;
- 26 (k) The Governor's Scholars Program;
- 27 (l) Any person who is retired for service from the retirement system and is

1 reemployed by an employer identified in this subsection in a position that the
2 board of trustees deems to be a member, except that any person who retires on
3 or after January 1, 2019, shall upon reemployment after retirement not earn a
4 second retirement account;

5 (m) Employees of the former Cabinet for Workforce Development who are
6 transferred to the Kentucky Community and Technical College System and
7 who occupy positions covered by the Kentucky Teachers' Retirement System
8 shall remain in the Teachers' Retirement System. New employees occupying
9 these positions, as well as newly created positions qualifying for Teachers'
10 Retirement System coverage that would have previously been included in the
11 former Cabinet for Workforce Development, shall be members of the
12 Teachers' Retirement System;

13 (n) Effective January 1, 1998, employees of state community colleges who are
14 transferred to the Kentucky Community and Technical College System shall
15 continue to participate in federal old age, survivors, disability, and hospital
16 insurance, and a retirement plan other than the Kentucky Teachers' Retirement
17 System offered by Kentucky Community and Technical College System. New
18 employees occupying positions in the Kentucky Community and Technical
19 College System as referenced in KRS 164.5807(5) that would not have
20 previously been included in the former Cabinet for Workforce Development,
21 shall participate in federal old age, survivors, disability, and hospital insurance
22 and have a choice at the time of employment of participating in a retirement
23 plan provided by the Kentucky Community and Technical College System,
24 including participation in the Kentucky Teachers' Retirement System, on the
25 same basis as faculty of the state universities as provided in KRS 161.235,
26 161.540, and 161.620;

27 (o) Employees of the Office of General Counsel, the Office of Budget and

1 Administrative Services, and the Office of Quality and Human Resources
2 within the Office of the Secretary of the former Cabinet for Workforce
3 Development and the commissioners of the former Department for Adult
4 Education and Literacy and the former Department for Technical Education
5 who were contributing to the Kentucky Teachers' Retirement System as of
6 July 15, 2000;

7 (p) Employees of the Kentucky Department of Education only who are graduates
8 of a four (4) year college or university, notwithstanding a substitution clause
9 within a job classification, and who are serving in a professional job
10 classification as defined by the department; and

11 (q) The Governor's School for Entrepreneurs Program.

12 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,
13 and became a member of the retirement system created by 1938 (1st Extra. Sess.)
14 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year
15 after that date, and any teacher who was a member of a local teacher retirement
16 system in the public elementary or secondary schools of the state on or before July
17 1, 1940, and continued to be a member of the system until he, with the membership
18 of the local retirement system, became a member of the state Teachers' Retirement
19 System or who becomes a member under the provisions of KRS 161.470(4);

20 (6) "New teacher" means any member not a present teacher;

21 (7) "Prior service" means the number of years during which the member was a teacher
22 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior
23 service shall be allowed or credited to any teacher;

24 (8) "Subsequent service" means the number of years during which the teacher is a
25 member of the Teachers' Retirement System after July 1, 1941;

26 (9) "Final average salary" means the average of the five (5) highest annual salaries
27 which the member has received for service in a covered position and on which the

1 member has made contributions, or on which the public board, institution, or
2 agency has picked-up member contributions pursuant to KRS 161.540(2), or the
3 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),
4 which shall include picked-up member contributions. Additionally, the board of
5 trustees may approve a final average salary based upon the average of the three (3)
6 highest salaries for members who are at least fifty-five (55) years of age and have a
7 minimum of twenty-seven (27) years of Kentucky service credit. However, if any of
8 the five (5) or three (3) highest annual salaries used to calculate the final average
9 salary was paid within the three (3) years immediately prior to the date of the
10 member's retirement, the amount of salary to be included for each of those three (3)
11 years for the purpose of calculating the final average salary shall be limited to the
12 lesser of:

- 13 (a) The member's actual salary; or
- 14 (b) The member's annual salary that was used for retirement purposes during each
15 of the prior three (3) years, plus a percentage increase equal to the percentage
16 increase received by all other members employed by the public board,
17 institution, or agency, or for members of school districts, the highest
18 percentage increase received by members on any one (1) rank and step of the
19 salary schedule of the school district. The increase shall be computed on the
20 salary that was used for retirement purposes.

21 This limitation shall not apply if the member receives an increase in salary in a
22 percentage exceeding that received by the other members, and this increase was
23 accompanied by a corresponding change in position or in length of employment.

24 This limitation shall also not apply to the payment to a member for accrued annual
25 leave if the individual becomes a member before July 1, 2008, or accrued sick leave
26 which is authorized by statute and which shall be included as part of a retiring
27 member's annual compensation for the member's last year of active service as

- 1 provided by KRS 161.155;
- 2 (10) "Annual compensation" means the total salary received by a member as
3 compensation for all services performed in employment covered by the retirement
4 system during a fiscal year. Annual compensation shall not include payment for any
5 benefit or salary adjustments made by the public board, institution, or agency to the
6 member or on behalf of the member which is not available as a benefit or salary
7 adjustment to other members employed by that public board, institution, or agency.
8 Annual compensation shall not include the salary supplement received by a member
9 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no
10 circumstances shall annual compensation include compensation that is earned by a
11 member while on assignment to an organization or agency that is not a public board,
12 institution, or agency listed in subsection (4) of this section. In the event that federal
13 law requires that a member continue membership in the retirement system even
14 though the member is on assignment to an organization or agency that is not a
15 public board, institution, or agency listed in subsection (4) of this section, the
16 member's annual compensation for retirement purposes shall be deemed to be the
17 annual compensation, as limited by subsection (9) of this section, last earned by the
18 member while still employed solely by and providing services directly to a public
19 board, institution, or agency listed in subsection (4) of this section. The board of
20 trustees shall determine if any benefit or salary adjustment qualifies as annual
21 compensation. For an individual who becomes a member on or after July 1, 2008,
22 annual compensation shall not include lump-sum payments upon termination of
23 employment for accumulated annual or compensatory leave;
- 24 (11) "Age of member" means the age attained on the first day of the month immediately
25 following the birthdate of the member. This definition is limited to retirement
26 eligibility and does not apply to tenure of members;
- 27 (12) "Employ," and derivatives thereof, means relationships under which an individual

1 provides services to an employer as an employee, as an independent contractor, as
2 an employee of a third party, or under any other arrangement as long as the services
3 provided to the employer are provided in a position that would otherwise be covered
4 by the Kentucky Teachers' Retirement System and as long as the services are being
5 provided to a public board, institution, or agency listed in subsection (4) of this
6 section;

7 (13) "Regular interest" means interest at three percent (3%) per annum, except:

8 (a) For an individual who becomes a member on or after July 1, 2008, but prior to
9 January 1, 2019, "regular interest" means interest at two and one-half percent
10 (2.5%) per annum for purposes of crediting interest to the teacher savings
11 account or any other contributions made by the employee that are refundable
12 to the employee upon termination of employment; and

13 (b) For an individual who becomes a member on or after January 1, 2019, who is
14 participating in the hybrid cash balance plan, "regular interest" means the
15 regular interest credited to the member's accumulated account balance as
16 provided by KRS 161.235;

17 (14) "Accumulated contributions" means the contributions of a member to the teachers'
18 savings fund, including picked-up member contributions as described in KRS
19 161.540(2), plus accrued regular interest;

20 (15) "Annuitant" means a person who receives a retirement allowance or a disability
21 allowance;

22 (16) "Local retirement system" means any teacher retirement or annuity system created
23 in any public school district in Kentucky in accordance with the laws of Kentucky;

24 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The
25 retirement plan year is concurrent with this fiscal year. A contract for a member
26 employed by a local board of education may not exceed two hundred sixty-one
27 (261) days in the fiscal year;

- 1 (18) "Public schools" means the schools and other institutions mentioned in subsection
2 (4) of this section;
- 3 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was
4 receiving, at the time of death of the member, at least one-half (1/2) of the support
5 from the member for maintenance, including board, lodging, medical care, and
6 related costs;
- 7 (20) "Active contributing member" means a member currently making contributions to
8 the Teachers' Retirement System, who made contributions in the next preceding
9 fiscal year, for whom picked-up member contributions are currently being made, or
10 for whom these contributions were made in the next preceding fiscal year;
- 11 (21) "Full-time" means employment in a position that requires services on a continuing
12 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year
13 basis;
- 14 (22) "Full actuarial cost," when used to determine the payment that a member must pay
15 for service credit means the actuarial value of all costs associated with the
16 enhancement of a member's benefits or eligibility for benefit enhancements,
17 including health insurance supplement payments made by the retirement system.
18 The actuary for the retirement system shall determine the full actuarial value costs
19 and actuarial cost factor tables as provided in KRS 161.400;
- 20 (23) "Last annual compensation" means the annual compensation, as defined by
21 subsection (10) of this section and as limited by subsection (9) of this section,
22 earned by the member during the most recent period of contributing service, either
23 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)
24 full year of service credit in the Kentucky Teachers' Retirement System, and which
25 compensation is used in calculating the member's initial retirement allowance,
26 excluding bonuses, retirement incentives, payments for accumulated sick leave
27 authorized by KRS 161.155, annual, personal, and compensatory leave, and any

- 1 other lump-sum payment. For an individual who becomes a member on or after July
2 1, 2008, payments for annual or compensatory leave shall not be included in
3 determining the member's last annual compensation;
- 4 (24) "Participant" means a member, as defined by subsection (4) of this section, or an
5 annuitant, as defined by subsection (15) of this section;
- 6 (25) "Qualified domestic relations order" means any judgment, decree, or order,
7 including approval of a property settlement agreement, that:
- 8 (a) Is issued by a court or administrative agency; and
9 (b) Relates to the provision of child support, alimony payments, or marital
10 property rights to an alternate payee;
- 11 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
12 participant, who is designated to be paid retirement benefits in a qualified domestic
13 relations order;
- 14 (27) "University member" means an individual who becomes a member through
15 employment with an employer specified in subsection (4)(b) and (n) of this section;
- 16 (28) "Nonuniversity member" means an individual who becomes a member through
17 employment with an employer specified under subsection (4) of this section, except
18 for those members employed by an employer specified in subsection (4)(b) and (n)
19 of this section;
- 20 (29) "Accumulated employer credit" means the employer pay credit deposited to the
21 member's account and regular interest credited on such amounts as provided by
22 KRS 161.235; and
- 23 (30) "Accumulated account balance" means:
- 24 (a) For members who began participating in the system prior to January 1, 2019,
25 the member's accumulated contributions; or
26 (b) For members who began participating in the system on or after January 1,
27 2019, in the hybrid cash balance plan as provided by KRS 161.235, the

1 combined sum of the member's accumulated contributions and the member's
2 accumulated employer credit.

3 →Section 24. The following KRS section is repealed:

4 156.017 Regional service centers.

5 →Section 25. In order to reflect the reorganization effectuated by this Act, the
6 reviser of statutes shall replace references in the Kentucky Revised Statutes to the
7 agencies, subagencies, and officers affected by this Act with references to the appropriate
8 successor agencies, subagencies, and officers established by this Act. The reviser shall
9 base these actions on the functions assigned to the new entities by this Act and may
10 consult with officers of the affected agencies, or their designees, to receive suggestions.

11 →Section 26. Notwithstanding KRS 12.028(5), the General Assembly confirms:

12 (1) Executive Order 2018-598, dated July 23, 2018, relating to the reorganization
13 of the Kentucky Department of Education, to the extent not otherwise confirmed or
14 superseded by this Act, except that the abolition of the Bureau of Operations and Support
15 Services and the Bureau of Learning Results Services is not confirmed; and

16 (2) Executive Order 2018-883, dated November 6, 2018, relating to the
17 reorganization of the Kentucky Department of Education, to the extent not otherwise
18 confirmed or superseded by this Act.