

1 AN ACT relating to state government.

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

3 ➔Section 1. KRS 18A.005 is amended to read as follows:

4 As used in this chapter, unless the context indicates otherwise:

- 5 (1) "Appointing authority" means the agency head or any person whom he or she has
6 authorized by law to designate to act on behalf of the agency with respect to
7 employee appointments, position establishments, payroll documents, register
8 requests, waiver requests, requests for certification, or other position actions. Such
9 designation shall be in writing and signed by both the agency head and his or her
10 designee. Prior to the exercise of appointing authority, such designation shall be
11 filed with the secretary;
- 12 (2) "Base salary or wages" means the compensation to which an employee is entitled
13 under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and
14 18A.110. Base salary or wages shall be adjusted as provided under the provisions of
15 KRS 18A.355 and 48.130;
- 16 (3) "Board" means the Personnel Board created by KRS 18A.045;
- 17 (4) "Career employee" ~~means~~shall mean a state employee with sixteen (16) or more
18 years of permanent full-time state service, or the part-time employment equivalent
19 of at least sixteen (16) years of full-time state service. The service may have been in
20 the classified service under this chapter, the unclassified service in the executive
21 branch of state government, or a combination thereof. At least five (5) years of the
22 combined service shall have been in the classified service under this chapter;
- 23 (5) "Certification" means the referral of the name of one (1) or more qualified
24 prospective employees by the secretary on request of an appointing officer for
25 consideration in filling a position in the classified service;
- 26 (6) "Class" means a group of positions sufficiently similar as to duties performed,
27 scope of discretion and responsibility, minimum requirements of training,

- 1 experience, or skill, and such other characteristics that the same title, the same tests
2 of fitness, and the same schedule of compensation have been or may be applied to
3 each position in the group;
- 4 (7) "Classified employee" means an employee appointed to a position in the classified
5 service under this chapter whose appointment and ~~continued~~ employment are
6 subject to the classified service provisions of this chapter and the administrative
7 regulations promulgated under this chapter;
- 8 (8) "Classified position" means a position in the executive branch of state government
9 that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115,
10 KRS Chapter 151B, or any other provision of law;
- 11 (9) "Classified service" includes all the employment subject to the terms of this chapter
12 except for those positions expressly cited in KRS 18A.115; a "classified position" is
13 a position in the classified service;
- 14 (10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS
15 18A.015;
- 16 (11) "Demotion" means a change in the rank of an employee from a position in one (1)
17 class to a position in another class having a lower minimum salary range and less
18 discretion or responsibility;
- 19 (12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the
20 context indicates otherwise;
- 21 (13) "Eligible" refers to a person who has made a passing score on any examination
22 required under KRS 18A.010 to 18A.200 or who has qualified to be placed on a
23 register;
- 24 (14) "Employee" means a person regularly appointed to a position in the state service for
25 which he or she is compensated on a full-time, part-time, or interim basis;
- 26 (15) "Federally funded time-limited employee" means an employee in the unclassified
27 service, appointed to a position that is funded one hundred percent (100%) by a

1 federal grant or grants. An employee appointed to a federally funded time-limited
2 position shall be required to meet the minimum requirements for the classification
3 in which he or she is hired and, subject to the provisions of KRS 18A.113, shall
4 serve at the pleasure of the appointing authority during a period of time that shall
5 not exceed the life of the federal grant that funds the position. A federally funded
6 time-limited employee who has been aggrieved by notice of disciplinary action or
7 termination, other than an action based on expiration of the federal grant funding,
8 may petition the appointing authority of the agency for the opportunity to be heard
9 by the appointing authority or his or her designee prior to the effective date of the
10 disciplinary action or termination. The decision of the appointing authority shall be
11 final except as provided by KRS 18A.095(14) and 18A.140. A federally funded
12 time-limited employee shall not have the right of appeal to the Personnel Board
13 except as provided by KRS 18A.095(14) and 18A.140;

14 (16) "Federally funded position" means a full-time or a part-time position in which the
15 unclassified employee is eligible for benefits at the same level as a classified
16 employee in a permanent position;

17 (17) "Full-time employee" means an employee in a full-time position;

18 (18) "Full-time position" means a position, other than an interim position, requiring an
19 employee to work at least thirty-seven and one-half (37.5) hours in a work week,
20 except for the following:

21 (a) Positions in the state parks, where the work assigned is dependent upon
22 fluctuations in tourism, may be assigned work hours from twenty-five (25)
23 hours per week during the off seasons and remain in full-time positions; and

24 (b) Positions in health care facilities, which regularly involve three (3)
25 consecutive days of twelve (12) hour shifts to cover weekends, shall be
26 considered full-time;

27 (19) "Initial probation" means the period of service following initial appointment to any

1 position under KRS 18A.010 to 18A.200 which requires special observation and
2 evaluation of an employee's work and which must be passed successfully before
3 status may be conferred as provided in KRS 18A.110 and by the provisions of this
4 chapter. If the appointee is granted leave in excess of twenty (20) consecutive work
5 days during this period, his or her initial probation shall be extended for the same
6 length of time as the granted leave to cover such absence;

7 (20) "Interim employee" means an unclassified employee without status who has been
8 appointed to an interim position that shall be less than nine (9) months duration;

9 (21) "Interim position" means a position established to address a one-time or recurring
10 need of less than nine (9) months duration and exempt from the classified service
11 under KRS 18A.115;

12 (22) "Part-time employee" means an employee in a part-time position;

13 (23) "Part-time position" means a position, other than an interim position, requiring an
14 employee to work less than one hundred (100) hours per month;

15 (24) ~~["Penalization" means demotion, dismissal, suspension, fines, and other disciplinary~~
16 ~~actions; involuntary transfers; salary adjustments; any action that increases or~~
17 ~~diminishes the level, rank, discretion, or responsibility of an employee without~~
18 ~~proper cause or authority, including a reclassification or reallocation to a lower~~
19 ~~grade or rate of pay; and the abridgment or denial of other rights granted to state~~
20 ~~employees;~~

21 ~~(25)~~ "Position" means an office or employment in an agency (whether part-time, full-
22 time, or interim, occupied, or vacant) involving duties requiring the services of one
23 (1) person;

24 ~~(25)~~~~(26)~~ "Promotion" means a change of rank of an employee from a position in one
25 (1) class to a position in another class having a higher minimum salary or carrying a
26 greater scope of discretion or responsibility;

27 ~~(26)~~~~(27)~~ "Promotional probation" means the period of service, consistent with the

1 length of the initial probationary period, following the promotion of an employee
2 with status which must be successfully completed in order for the employee to
3 retain the position to which he or she has been promoted. If the employee is granted
4 leave in excess of twenty (20) consecutive work days during this period, his or her
5 promotional probation shall be extended for the same length of time as the granted
6 leave to cover such absence;

7 ~~(27)~~~~(28)~~ "Qualifying" means the selection method type which results when the
8 knowledge, skills, and abilities necessary for a job classification cannot be
9 accurately measured by written examination;

10 ~~(28)~~~~(29)~~ "Reallocation" means the correction of the classification of an existing
11 position by placement of the position into the classification that is appropriate for
12 the duties the employee has been and shall continue to perform;

13 ~~(29)~~~~(30)~~ "Reclassification" shall mean the change in the classification of an employee
14 when a material and permanent change in the duties or responsibilities of that
15 employee has been assigned in writing by the appointing authority;

16 ~~(30)~~~~(31)~~ "Reemployment" shall mean the rehiring of an employee with status who has
17 been laid-off;

18 ~~(31)~~~~(32)~~ "Reemployment register" means the separate list of names of persons who
19 have been separated from state service by reason of ~~layoff~~~~lay-off~~. Reemployment
20 registers shall be used as provided by the provisions of KRS 18A.110, 18A.130,
21 and 18A.135;

22 ~~(32)~~~~(33)~~ "Register" means any official list of eligibles for a particular class and, except
23 as provided in this chapter, placed in rank order according to the examination scores
24 maintained for use in making original appointments or promotions to positions in
25 the classified service;

26 ~~(33)~~~~(34)~~ "Reinstatement" means the privilege of restoration of an employee who has
27 resigned in good standing at the option of the appointing authority, or who has been

1 ordered reinstated by the board or a court to a position in his former class, or to a
2 position of like status and pay;

3 ~~(34)~~~~(35)~~ "Reversion" means either the returning of a status employee to his or her last
4 position held in the classified service, if vacant, or the returning of a status
5 employee to a vacant position in the same or similar job classification as his or her
6 last position held in the classified service. Reversion occurs after a career employee
7 is terminated other than for cause from the unclassified service or after a status
8 employee fails to successfully complete promotional probation. Reversion after
9 unsuccessful completion of promotional probation, or in the case of a career
10 employee after termination from the unclassified service, may only be appealed to
11 the Personnel Board under KRS 18A.095(12);

12 ~~(35)~~~~(36)~~ "Seniority" means the total number of months of state service;

13 ~~(36)~~~~(37)~~ "Status" means the acquisition of tenure with all rights and privileges granted
14 by the provisions of this chapter after satisfactory completion of the initial
15 probationary period by an employee in the classified service; and

16 ~~(37)~~~~(38)~~ "Transfer" means a movement of any employee from one (1) position to
17 another of the same grade having the same salary ranges, the same level of
18 responsibility within the classified service, and the same salary received
19 immediately prior to transfer.

20 ➔Section 2. KRS 18A.030 is amended to read as follows:

21 (1) The secretary shall be the executive and administrative head of the cabinet and shall
22 supervise and control all examinations and work of the cabinet. He or she shall
23 advise the board on matters pertaining to the classified service of this state. Within
24 the limitations of the budget, the secretary shall appoint and supervise the staff
25 needed in the cabinet to carry out the purposes of KRS 18A.005 to 18A.200 except
26 employees of the board who shall be appointed as provided in KRS 18A.090.

27 (2) Subject to the provisions of this chapter and KRS Chapter 13A, the secretary shall,

- 1 with the aid of his *or her* staff:
- 2 (a) Attend all meetings of the board;
- 3 (b) As provided by this chapter, promulgate comprehensive administrative
4 regulations consistent with the provisions of KRS Chapters 13A and 18A, and
5 with federal standards for the administration of a personnel system in the
6 agencies of the state government receiving federal grants;
- 7 (c) Establish general procedures for personnel recruitment, for certification, and
8 for improving the efficiency of employed personnel;
- 9 (d) Appoint the examiners and technicians necessary for the conduct of the
10 personnel program, whether on a permanent or temporary basis;
- 11 (e) Prepare and maintain a record of all employees, showing for each employee
12 his *or her* name, address, title of position held, rate of compensation, changes
13 in status, compensation, or title, transfer, and to make the data and the class
14 specifications for all positions available to the press and public;
- 15 (f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and
16 the administrative regulations adopted thereunder, examinations, eligible lists,
17 and ratings of candidates for appointment;
- 18 (g) Make certification for appointment or promotion within the classified service,
19 in accordance with the provisions of KRS 18A.005 to 18A.200;
- 20 (h) Make investigations concerning all matters touching the enforcement and
21 effect of the provisions of KRS 18A.005 to 18A.200 and administrative
22 regulations prescribed thereunder;
- 23 (i) Prepare, in cooperation with appointing authorities and others, programs for
24 employee training, safety, morale, work motivation, health, counseling, and
25 welfare, and exercise leadership in the development of effective personnel
26 administration within the several departments of the Commonwealth, and
27 make available the facilities of the department to this end;

- 1 (j) Provide personnel services to unclassified employees in agreement with the
2 agencies involved not otherwise provided for in KRS 18A.005 to 18A.200;
- 3 (k) Present, in accordance with the provisions of KRS Chapter 48, budget
4 requests for the support of the personnel system created by KRS 18A.005 to
5 18A.200, excluding the board, which shall present its own budget estimates;
- 6 (l) Make a report and submit the same to the board, the Legislative Research
7 Commission, and the Governor not later than October first of each year;
- 8 (m) Propose selection method changes for any classification to the Personnel
9 Board with documentation justifying the need for the selection method
10 change. The Personnel Board shall, at its next regularly scheduled monthly
11 meeting, review and comment on any proposed selection method change. A
12 classification shall not have its selection method changed without review and
13 comment by the Personnel Board;
- 14 **(n) Perform a classification and compensation study at least once every five (5)**
15 **years;** and
- 16 ~~(o)~~~~(n)~~ Discharge the other duties imposed upon him **or her** by KRS 18A.005 to
17 18A.200.
- 18 (3) The secretary on behalf of the cabinet may join or subscribe to any association or
19 service having as its purpose the interchange of information relating to the
20 improvement of the public service and especially improvement of personnel
21 administration.
- 22 (4) The secretary shall keep records relative to employee turnover and report to the
23 board, the Governor, and the Legislative Research Commission quarterly. The
24 report shall reflect employee turnover rates by cabinet, department, bureau,
25 division, and section. If any cabinet, department, bureau, division, or section has a
26 turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the
27 secretary shall conduct an investigation into the reasons for the turnover and report

- 1 the findings to the board, the Governor, and the Legislative Research Commission.
- 2 (5) The secretary shall provide to each new state employee and to each existing state
3 employee, classified or otherwise, on an annual basis an informational pamphlet
4 about human immunodeficiency virus infection and acquired immunodeficiency
5 syndrome. The pamphlet shall be approved by the Cabinet for Health and Family
6 Services and shall contain information about the nature and extent of these diseases,
7 methods of transmission, preventive measures, and referral services.
- 8 (6) The secretary shall establish and maintain a list of all filled positions exempted
9 from classified service under KRS 18A.115(1) (e), (g), (h), (i), (k), (t), (w), (aa),
10 and (ab). The list shall include the following information for each filled position:
- 11 (a) The name of the agency where the position is assigned;
- 12 (b) The statutory authority for the unclassified status of the position;
- 13 (c) The title of the position;
- 14 (d) The pay grade of the position;
- 15 (e) The annual salary of the employee in the position; and
- 16 (f) The work county of the employee in the position.
- 17 (7) Beginning September 1, 2010, and every six (6) months thereafter, the secretary
18 shall provide the Governor and the Legislative Research Commission with a copy
19 of the list described in subsection (6) of this section, and shall indicate on the list
20 any position that has been added to the list since the last submission.
- 21 (8) The secretary shall perform organizational analysis and review.
- 22 ➔Section 3. KRS 18A.032 is amended to read as follows:
- 23 (1) Except as provided by the provisions of this chapter, the secretary may refuse to
24 examine an applicant; or, after examination, may disqualify an applicant, remove
25 his or her name from a register, refuse to certify any eligible on a register, or may
26 consult with the appointing authority in taking steps to remove the~~[such]~~ person
27 already appointed if:

- 1 (a) It is found that he or she does not meet any one (1) of the preliminary
2 requirements established for the examination for the class of position;
- 3 (b) He or she is unable to perform the duties of the class;
- 4 (c) He or she has made a false statement of material fact in his or her application;
- 5 (d) He or she has used or attempted to use political pressure or bribery to secure
6 an advantage in the examination;
- 7 (e) He or she has directly or indirectly obtained information regarding the
8 examination to which, as an applicant, he or she was not entitled;
- 9 (f) He or she has failed to submit his or her application correctly or within the
10 prescribed time limits;
- 11 (g) He or she has taken part in the compilation, administration, or correction of
12 the examination for which he or she is an applicant;
- 13 (h) He or she has previously been dismissed from a position in the state service
14 for cause or has resigned while charges for dismissal for cause of which he or
15 she had knowledge were pending;
- 16 (i) He or she has been convicted of a felony within the preceding five (5) years
17 and his or her civil rights have not been restored or he or she has not been
18 pardoned by the Governor;
- 19 (j) He or she has been convicted of a job related misdemeanor, except that
20 convictions for violations of traffic regulations shall not constitute grounds for
21 disqualification; or
- 22 (k) He or she has otherwise willfully violated the provisions of this chapter.
- 23 (2) An eligible may be removed from a register:
- 24 (a) If the eligible cannot be located by postal authorities at the last address
25 provided by the eligible;
- 26 (b) If the eligible responds in writing that he or she no longer desires
27 consideration for position in that class;

- 1 (c) If the eligible declines an offer of probationary appointment to the class for
2 which the register was established;
- 3 (d) If it is shown that the eligible is not qualified or is unsuitable for appointment
4 to the class for which the register is established;
- 5 (e) If the eligible fails to reply within a period of ten (10) calendar days of the
6 receipt of the written request of the appointing authority for an interview, or
7 fails to appear for an interview which he or she has scheduled with the
8 appointing authority without good cause;
- 9 (f) If the eligible accepts an appointment and fails to present himself or herself
10 for duty at the time and place agreed to without giving reasons for the delay
11 satisfactory to the appointing authority;~~or~~
- 12 (g) If the eligible states in writing that he or she is not available for appointment
13 or does not wish to be considered for appointment; or
- 14 **(h) If the eligible demonstrates erratic, unsafe, or threatening behavior.**
- 15 (3) When an eligible notifies the cabinet in writing that he or she is unavailable for
16 employment or employment consideration, the cabinet may remove the name of
17 that eligible from the appropriate register without further notification to the person.
- 18 (4) When the cabinet is notified in writing by an appointing authority that an eligible
19 has accepted a bona fide offer of probationary appointment to any position,
20 effective on a specified date, his or her name may be removed from the register for
21 all classes for which the maximum salary is the same or less than that of the class to
22 which he or she has been appointed.
- 23 ➔Section 4. KRS 18A.0551 is amended to read as follows:
- 24 (1) (a) Elections to the board shall be scheduled every four (4) years on or before
25 June 15. The **Personnel Cabinet**~~board~~ shall provide written **or electronic**
26 notification of the date of the election to all classified employees on or before
27 April 1; and

- 1 (b) Upon receipt of the notification provided for by paragraph (a) of this
 2 subsection, a classified~~an~~ employee wishing to serve on the board shall
 3 notify the board, in writing or electronically, no later than May 15. This
 4 notification ~~shall be notarized and~~ shall include the candidate's name,
 5 address, unique personal identification number, job classification, ~~and~~ length
 6 of state employment, and~~. It shall also include the~~ name ~~and address~~ of his
 7 or her current employer.
- 8 (2) ~~{On the last working day of April, }~~The cabinet shall determine which employees
 9 are eligible to vote in the Personnel Board election as of the last calendar day in
 10 April~~{certify a payroll listing to the board that is current on such day and that~~
 11 ~~contains the name, unique personal identification number, and home address of~~
 12 ~~every classified employee}~~.
- 13 (3) At least ten (10) working days prior to the election provided for in subsection (1) of
 14 this section, the cabinet~~board~~ shall notify~~mail to~~ each classified employee
 15 identified in subsection (2) of this section of the upcoming election and include in
 16 the notification a ballot and instructions for voting~~{whose name appeared on the~~
 17 ~~payroll listing certified by the cabinet at his home address:~~
- 18 (a) ~~A list of candidates for election to the board;~~
 19 (b) ~~Instructions for voting;~~
 20 (c) ~~A ballot listing the names of all candidates for election to the board; and~~
 21 (d) ~~An envelope for returning the ballot should the classified employee wish to~~
 22 ~~return the ballot by first class mail}~~.
- 23 (4) Upon receipt of the~~his~~ ballot, a classified employee wishing to participate in the
 24 election provided for in subsection (1) of this section shall:
- 25 (a) Vote for no more than two (2) candidates on the ballot, following the
 26 cabinet's instructions for voting; and
- 27 (b) Submit~~{Print his or her unique personal identification number on the ballot in~~

1 the space provided on the ballot; and

2 (e) ~~Deliver~~ the ballot ~~to the board~~ by the ~~any~~ means and, including first-class
3 mail, facsimile, scanned e-mail, or hand delivery. Ballots shall arrive at the
4 board's principal address no later than the date of the election or be
5 postmarked on or before the date specified by the cabinet ~~of the election~~.

6 (5) The cabinet ~~board~~ shall:

7 (a) ~~Select an impartial third party to~~ Receive, validate, and tabulate all returned
8 votes ~~ballots as provided by this subsection and subsection (6) of this section~~;
9 and

10 (b) Transmit the results to the board ~~Provide the impartial third party with a~~
11 computer-generated list of the unique personal identification numbers of
12 eligible voters in numerical order}.

13 (6) ~~The impartial third party selected by the board shall collect all ballots from the~~
14 ~~board and:~~

15 (a) ~~Set aside, untabulated, any envelope postmarked with, or ballot stamped as received~~
16 ~~at the board on, a date subsequent to the deadline provided for by this section;~~

17 (b) ~~Verify the unique personal identification number on the ballot by comparing the~~
18 ~~number to the computer-generated list of unique personal identification numbers of~~
19 ~~eligible voters provided by the cabinet;~~

20 (c) ~~Set aside, untabulated, any ballot containing a unique personal identification~~
21 ~~number that does not match the unique personal identification number appearing~~
22 ~~next to the name on the computer-generated list;~~

23 (d) ~~Tabulate the timely ballots;~~

24 (e) ~~Compare the total tabulated vote with the total number of eligible employees~~
25 ~~appearing on the computer-generated list provided by the cabinet;~~

26 (f) ~~Return the ballots; envelopes, including envelopes that have not been opened; and~~
27 ~~other election material to the board; and~~

1 ~~(g)~~ Certify to the board:

2 1. ~~That the tabulation does not include two (2) or more ballots with the same unique~~
3 ~~personal identification number;~~

4 2. ~~The total number of ballots received;~~

5 3. ~~The total number of ballots not included in the tabulation, and the reason each such~~
6 ~~ballot was not included in the tabulation;~~

7 4. ~~The total number of ballots included in the tabulation; and~~

8 5. ~~The total vote for each candidate.~~

9 ~~(7)~~ For at least sixty (60) days after the completion of the tabulation provided for by
10 subsection ~~(5)~~~~(6)~~ of this section, the ~~ballots, envelopes, and other~~ election
11 materials ~~provided for by this section~~ shall be public record and open to
12 inspection, **however any personally identifiable information, including** ~~but the~~
13 home addresses and unique personal identification numbers of the eligible
14 employees and voters, shall be redacted prior to public inspection or disclosure.

15 ~~(7)~~~~(8)~~ The two (2) **eligible** candidates receiving the greatest number of votes shall be
16 declared the successful candidates. In the event of a tie vote, the tie shall be broken
17 by a coin toss in the presence of the candidates receiving the tie vote.

18 ~~(8)~~~~(9)~~ Successful candidates shall be notified by the board no later than ten (10)
19 working days after the election. Successful candidates shall take office immediately
20 upon notification.

21 ~~(9)~~~~(10)~~ State employees may use state materials or equipment, except for state-paid
22 first-class postage, to vote in the election of classified employees to the board.
23 Except for voting in accordance with this section, any activity related to the election
24 of a classified employee to the board shall not be conducted during working hours.

25 **(10) The secretary may promulgate administrative regulations pursuant to KRS**
26 **Chapter 13A to implement the provisions of this section.**

27 ➔Section 5. KRS 18A.095 is amended to read as follows:

- 1 (1) A classified employee with status shall not be dismissed, demoted, suspended
2 **without pay, or involuntarily transferred**~~[otherwise penalized]~~ except for cause.
- 3 (2) Prior to dismissal, a classified employee with status shall be notified in writing of
4 the intent to dismiss him **or her**. The notice shall also state:
- 5 (a) The specific reasons for dismissal including:
- 6 1. The statutory,~~[or]~~ regulatory, **or policy** violation;
- 7 2. The specific action or activity on which the intent to dismiss is based;
- 8 3. The date,~~[time,]~~ and place of such action or activity; and
- 9 4. The **names**~~[name]~~ of the parties involved;
- 10 (b) That the employee has the right to appear personally, or with counsel if he **or**
11 **she** has retained counsel, to reply to the **appointing authority**~~[head of the~~
12 ~~cabinet or agency]~~ or his **or her** designee; and
- 13 (c) Whether the employee is placed on administrative leave by the appointing
14 authority with pay upon receiving the intent to dismiss letter prior to the
15 agency's final action.
- 16 (3) The Personnel Cabinet shall prescribe and distribute a **pretermination** form to be
17 completed and forwarded by an employee who wishes to appear before the~~[head of~~
18 ~~the cabinet or agency or his designee, to each]~~ appointing authority **or his or her**
19 **designee**. The form shall be attached to every notice of intent to dismiss and shall
20 contain written instructions explaining:
- 21 (a) The right granted an employee under the provisions of this section relating to
22 pretermination hearings; and
- 23 (b) The time limits and procedures to be followed by all parties in pretermination
24 hearings.
- 25 (4) No later than five (5) working days after receipt of the notice of intent to dismiss,
26 excluding the day he **or she** receives the notice, the employee may request to
27 appear, personally or with counsel if he **or she** has retained counsel, to reply to the

- 1 appointing authority~~[head of the cabinet or agency]~~ or his or her designee.
- 2 (5) Unless agreed to by the appointing authority or his or her designee and~~[waived~~
3 ~~by]~~ the employee, the appearance shall be scheduled within six (6) working days
4 after receipt of an employee's request to appear before the appointing
5 authority~~[head of the cabinet or agency]~~ or his or her designee, excluding the day
6 his or her request is received.
- 7 (6) No later than five (5) working days after the employee appears before the
8 appointing authority~~[head of the cabinet or agency]~~ or his or her designee,
9 excluding the day of the appearance, the cabinet head or agency or his or her
10 designee shall:
- 11 (a) Determine whether to dismiss the employee or to~~[alter,]~~ modify~~[,]~~ or rescind
12 the intent to dismiss; and
- 13 (b) Notify the employee in writing of the decision.
- 14 (7) If the appointing authority~~[cabinet or agency head]~~ or his or her designee
15 determines that the employee shall be dismissed~~[or otherwise penalized]~~, the
16 employee shall be notified in writing of:
- 17 (a) The effective date of his or her dismissal~~[or other penalization]~~;
- 18 (b) The specific reason for the dismissal~~[this action]~~, including:
- 19 1. The statutory,~~[or]~~ regulatory, or policy violation;
- 20 2. The specific action or activity on which the dismissal~~[or other~~
21 ~~penalization]~~ is based;
- 22 3. The date~~[, time,]~~ and place of the action or activity; and
- 23 4. The names~~[name]~~ of the parties involved; and
- 24 (c) That he or she may appeal the dismissal~~[or other penalization]~~ to the board
25 within thirty (30) calendar~~[sixty (60)]~~ days after receipt of this notification,
26 excluding the day he or she receives notice.
- 27 (8) A classified employee with status who is demoted, suspended without pay, or

1 *involuntarily transferred*~~[otherwise penalized]~~ shall be notified in writing of:

2 (a) The demotion, suspension, or *involuntary transfer*~~[other penalization]~~;

3 (b) The effective date of the demotion, suspension, or *involuntary transfer*~~[other~~
4 ~~penalization]~~;

5 (c) The specific reason for the *demotion, suspension, or involuntary*
6 *transfer*~~[action]~~ including:

7 1. The statutory,~~[or]~~ regulatory, *or policy* violation;

8 2. The specific action or activity on which the demotion, suspension, or
9 *involuntary transfer*~~[other penalization]~~ is based;

10 3. The date~~[, time,]~~ and place of the action or activity; and

11 4. The *names*~~[name]~~ of the parties involved; and

12 (d) That he or she has the right to appeal to the board within *thirty (30)*
13 *calendar*~~[sixty (60)]~~ days, excluding the day that he or she received
14 notification of the personnel action.

15 (9) Any unclassified employee who is dismissed, demoted, suspended *without pay*, or
16 *involuntarily transferred*~~[otherwise penalized]~~ for cause may, within thirty (30)
17 *calendar* days after the dismissal, demotion, suspension, or *involuntary*
18 *transfer*~~[other form of penalization]~~, appeal to the board for review thereof.

19 (10) (a) An employee whose position is reallocated shall be notified in writing by the
20 appointing authority of:

21 1. The reallocation *or reclassification*; and

22 2. *If the reallocation or reclassification is to a lower grade*, his *or her*
23 right to request reconsideration by the secretary within ten (10) working
24 days of receipt of the notice, excluding the day he *or she* receives
25 notification.

26 (b)~~[He shall be provided with a form prescribed by the secretary on which to~~
27 ~~request reconsideration.]~~

1 ~~(e)}~~ The employee shall file a written request for reconsideration of the
 2 reallocation or reclassification to a lower grade~~[of his position]~~ with the
 3 secretary in a manner and form prescribed by the secretary and shall be given
 4 a reasonable opportunity to be heard~~[thereon]~~ by the secretary. The secretary
 5 shall make a determination within sixty (60) calendar days after the request
 6 has been filed by an employee. The secretary's determination shall be final
 7 and shall not be appealable to the Personnel Board~~[After reconsideration of~~
 8 ~~the request by the secretary, the employee may appeal to the board].~~

9 (11) (a) ~~[Any state employee, applicant for employment, or eligible on a register may~~
 10 ~~appeal to the board on the grounds that his right to inspect or copy records,~~
 11 ~~including preliminary and other supporting documentation, relating to him has~~
 12 ~~been denied, abridged, or impeded by a public agency. The board shall~~
 13 ~~conduct a hearing to determine whether the records related to the employee,~~
 14 ~~applicant, or eligible, and whether his right to inspect or copy these records~~
 15 ~~was denied, abridged, or impeded. If the board determines that the records~~
 16 ~~related to the employee and that the right to inspect or copy these records has~~
 17 ~~been denied, abridged, or impeded, the board shall order the public agency to~~
 18 ~~make them available for inspection and copying and shall charge the cost of~~
 19 ~~the hearing to the public agency. A state employee, an applicant for~~
 20 ~~employment, and an eligible on a register shall not have the right to inspect or~~
 21 ~~to copy any examination materials.~~

22 ~~(12)~~ Any applicant, classified employee, or federally funded time-limited employee
 23 may appeal to the board an action alleged to be based on discrimination due to
 24 race, color, religion, national origin, sex, disability, ~~[or]~~ age forty (40) and
 25 above, or any other category protected under state or federal civil rights
 26 laws. Nothing in this section shall be construed to preclude any applicant,
 27 classified employee, or unclassified employee from filing with the Kentucky

1 Commission on Human Rights a complaint alleging discrimination on the
2 basis of race, color, religion, national origin, sex, disability, or age in
3 accordance with KRS Chapter 344.

4 *(b) Appeals alleging discrimination shall be filed within thirty (30) calendar*
5 *days after the alleged discriminatory action occurred.*

6 *(12) (a) Any applicant for classified employment under KRS Chapter 18A who has*
7 *been notified by the Personnel Cabinet that he or she did not meet the*
8 *minimum qualifications for a position may request reconsideration from the*
9 *secretary not more than ten (10) calendar days after the notification was*
10 *sent. The secretary's review and determination of the reconsideration shall*
11 *be completed within ten (10) calendar days from the receipt of the request*
12 *for reconsideration. The secretary's determination shall be final and shall*
13 *not be appealable to the Personnel Board.*

14 *(b) Any applicant for employment in a classified position under KRS Chapter*
15 *18A may appeal the hiring agency's nonselection based on an alleged*
16 *violation of appointment and promotion provisions contained in this chapter*
17 *or administrative regulations promulgated under this chapter to the board.*
18 *The appeal shall be filed not later than thirty (30) calendar days after the*
19 *notice of nonselection was mailed or sent electronically.*

20 (13) When *an employee who qualifies for a position has his or her name removed*
21 *from the register, the employee may petition the secretary for the opportunity to*
22 *be heard by the secretary or his or her designee. The petition shall be delivered to*
23 *the secretary in writing or electronically no later than ten (10) calendar days after*
24 *the removal notification has been sent. The secretary's decision shall be final and*
25 *not appealable to the Personnel Board*~~[an eligible's name is removed from a~~
26 ~~register, the secretary shall notify the eligible of his action and the reasons therefor,~~
27 ~~together with his right of appeal. An eligible's name shall be restored to the register~~

1 ~~upon presentation of reasons satisfactory to the secretary or in accordance with the~~
2 ~~decision of the board.~~

3 ~~(14) (a) Any employee, applicant for employment, or eligible on a register, who~~
4 ~~believes that he has been discriminated against, may appeal to the board.~~

5 ~~(b) Any applicant whose application for admission to an open competitive~~
6 ~~examination has been rejected shall be notified of this rejection and the~~
7 ~~reasons therefor and may appeal to the board for reconsideration of his~~
8 ~~qualifications and for admission to the examination. Applicants may be~~
9 ~~conditionally admitted to an examination by the secretary pending~~
10 ~~reconsideration by the board.~~

11 ~~(c) Any applicant who has taken an examination may appeal to the board for a~~
12 ~~review of his rating in any part of the examination to assure that uniform~~
13 ~~rating procedures have been applied equally and fairly.~~

14 ~~(d) An appeal to the board by applicants or eligibles under subsections (11) and~~
15 ~~(13) of this section and under this subsection shall be filed in writing with the~~
16 ~~executive director not later than thirty (30) calendar days after the notification~~
17 ~~of the action in question was mailed.~~

18 ~~(15) An evaluation may be appealed to the board if an employee has complied with the~~
19 ~~review procedure established in KRS 18A.110(7)(j)].~~

20 ~~(14)~~~~[(16)] (a) Appeals to the board shall be in writing on an appeal form prescribed by~~
21 ~~the board. [Appeal forms shall be available at the employee's place of work.]~~
22 The Personnel ***Board***~~[Cabinet]~~ shall be responsible for the distribution of
23 these forms.

24 (b) The appeal form shall be attached to any notice~~[, or copy of any notice,]~~ of
25 dismissal, demotion, suspension, ***or***~~[fine,]~~ involuntary transfer~~[, or other~~
26 ~~penalization, reallocation, or notice of any other action an employee may~~
27 ~~appeal under the provisions of this section].~~ The appeal form shall instruct the

1 employee to state whether he or she is a classified or unclassified employee,
 2 his or her full name, his or her appointing authority, work station address and
 3 telephone number, home address and personal telephone number, personal
 4 email address, and, if he or she has retained counsel at the time he or she files
 5 an appeal, the name, address, and telephone number of his or her attorney.

6 (c) The form shall also instruct a classified employee to state the action he or she
 7 is appealing in a short, plain, concise statement of the facts. The form shall
 8 instruct an unclassified employee to make a short, plain, concise statement of
 9 the reason for the appeal and the cause given for his or her dismissal,
 10 demotion, suspension, or involuntary transfer.

11 (d) Any appeal form filed by a classified or unclassified employee shall identify
 12 the statute, administrative regulation, or policy that was allegedly violated.

13 (e) Upon receipt of the appeal by the board, the appointing authority and the
 14 Personnel Cabinet shall be notified and the board shall schedule a hearing.

15 ~~(15)~~~~(17)~~ All administrative hearings conducted by the board shall be conducted in
 16 accordance with KRS Chapter 13B.

17 ~~(16)~~~~(18)~~ (a) The board ~~shall~~~~may~~ deny a hearing to an employee who has failed to
 18 file an appeal within the time prescribed by this section; and to an unclassified
 19 employee who has failed to state the reasons for the appeal and the cause for
 20 which he or she has been dismissed, demoted, suspended without pay, or
 21 involuntarily transferred. The board ~~shall~~~~may~~ deny any appeal after a
 22 preliminary hearing if it lacks jurisdiction to grant relief. The board shall
 23 notify the employee of its denial in writing and shall inform the employee of
 24 his or her right to appeal the denial under the provisions of KRS 18A.100.

25 (b) Any investigation by the board of any matter related to an appeal filed by an
 26 employee shall be conducted only upon notice to the employee, the
 27 employee's counsel, and the appointing authority. All parties to the appeal

1 shall have access to information produced by the investigations and the
2 information shall be presented at the hearing.

3 ~~(17)~~~~(19)~~ Each appeal shall be decided individually, unless otherwise agreed by the
4 parties and the board. The board shall not:

5 (a) Employ class action procedures; or

6 (b) Conduct test representative cases.

7 ~~(18)~~~~(20)~~ Board members shall abstain from public comment about a pending or
8 impending proceeding before the board. This shall not prohibit board members
9 from making public statements in the course of their official duties or from
10 explaining for public information the procedures of the board.

11 ~~(19)~~~~(21)~~ An appeal to the board may be heard by the full board or one (1) or more of
12 the following: Its executive director, its general counsel, any nonelected member of
13 the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

14 ~~(20)~~~~(22)~~ (a) If the board finds that the action complained of was taken by the
15 appointing authority in violation of laws prohibiting favor for, or
16 discrimination against, or bias with respect to, his ***or her*** political or religious
17 opinions or affiliations or ethnic origin, or in violation of laws prohibiting
18 discrimination because of such individual's sex or age or disability, the
19 appointing authority shall immediately reinstate the employee to his ***or her***
20 former position or a position of like status and pay, without loss of pay for the
21 period of ***time at issue***~~[his penalization]~~, or otherwise make the employee
22 whole unless the order is stayed by the board or the court on appeal.

23 (b) If the board finds that the action complained of was taken without just cause,
24 the board shall order the immediate reinstatement of the employee to his ***or***
25 ***her*** former position or a position of like status and pay, without loss of pay for
26 the period of ***time at issue***~~[his penalization]~~, or otherwise make the employee
27 whole unless the order is stayed by the board or the court on appeal.

1 (c) If the board finds that the action taken by the appointing authority was
2 excessive or erroneous in view of all the surrounding circumstances, the board
3 shall direct the appointing authority to ~~to alter,~~ modify~~,~~ or rescind the ~~the~~
4 ~~disciplinary~~ action ***at issue***.

5 (d) In all other cases, the board shall direct the appointing authority to rescind the
6 action taken or otherwise grant specific relief or dismiss the appeal.

7 ~~(21)~~~~(23)~~ If a final order of the board is appealed, a court ***may***~~shall~~ award reasonable
8 attorney fees to an employee who prevails by a final adjudication on the merits as
9 provided by KRS 453.260. This award shall not include attorney fees attributable to
10 the hearing before the board.

11 ~~(22)~~~~(24)~~ When any employee is dismissed and not ordered reinstated after the appeal,
12 the board in its discretion may direct that his ***or her*** name be placed on an
13 appropriate reemployment list for employment in any similar position other than the
14 one from which he ***or she*** had been removed.

15 ~~(23)~~~~(25)~~ After a final decision has been rendered by the board or court, an employee
16 who prevails in his ***or her*** appeal ***may***~~shall~~ be credited with the amount of leave
17 time used for time spent at his ***or her*** hearing before the board or court. Employees
18 who had an insufficient amount of leave time shall be credited with leave time
19 equal to the amount of time spent at their hearings before the board or court.

20 ~~(24)~~~~(26)~~ If the appointing authority appeals the final order of the board, unless the
21 board rules otherwise, the reinstated employee shall remain in his ***or her*** former
22 position, or a position of like status or pay, until the conclusion of the appeals
23 process, at which time the appointing authority shall take action in accordance with
24 the court order.

25 ~~(25)~~~~(27)~~ After a final decision in a contested case has been rendered by the last
26 administrative or judicial body to which the case has been appealed, the board shall
27 make the decision available to the public in electronic format on its ***website***~~Web~~

1 site] and shall organize the decisions according to the statutory basis for which the
2 appeal was based.

3 **(26) Appeals concerning dismissals of classified employees with status shall take**
4 **precedence for hearings before the board over all other appeals.**

5 **(27) Any classified or unclassified employee as defined in Section 1 of this Act who is**
6 **not restored to a position pursuant to KRS 61.371 to 61.377, or who is dismissed**
7 **without cause within one (1) year after reinstatement, may appeal to the**
8 **Personnel Board. The appeal shall be filed in writing with the executive director**
9 **of the board not later than thirty (30) days after the notification of the action in**
10 **question has been mailed or sent electronically.**

11 **(28) If an individual received a notice that does not comply with subsections (7)(c),**
12 **(8)(d), or (14)(b) of this section, or received no written or electronic notification**
13 **of his or her dismissal, demotion, suspension, or involuntary transfer pursuant to**
14 **subsections (7) or (8) of this section, he or she shall file his or her appeal to the**
15 **board within one hundred eighty (180) days of:**

16 **(a) Receipt of the written notice, if he or she received a written notice that does**
17 **not comply with subsections (7)(c), (8)(d), or (14)(b); or**

18 **(b) The alleged act, if he or she did not receive written or electronic notification**
19 **of the alleged act in question.**

20 **(29) If a classified or unclassified employee refuses or fails to cooperate as a witness**
21 **in an agency, Personnel Cabinet, or board investigation, hearing, proceeding, or**
22 **inquiry, the employee may be subject to disciplinary action.**

23 **(30) Unless otherwise provided by this chapter, the board shall not have jurisdiction**
24 **over any appeal except as authorized by this section**

25 [~~For the purposes of subsections (2), (3), (4), (5), (6), and (7) of this section, the word~~
26 ~~"agency" means any agency not assigned to a cabinet for organizational purposes.~~

27 ~~(29) Notwithstanding any other prescribed limitation of action, an employee that has~~

1 ~~been penalized, but has not received a written notice of his or her right to appeal as~~
2 ~~provided in this section, shall file his or her appeal with the Personnel Board within~~
3 ~~one (1) year from the date of the penalization or from the date that the employee~~
4 ~~reasonably should have known of the penalization].~~

5 ➔Section 6. KRS 18A.110 (Effective April 1, 2023) is amended to read as
6 follows:

- 7 (1) The secretary shall promulgate comprehensive administrative regulations for the
8 classified service governing:
- 9 (a) Applications and examinations;
 - 10 (b) Certification and selection of eligibles;
 - 11 (c) Classification and compensation plans;
 - 12 (d) Incentive programs;
 - 13 (e) Layoffs~~[Lay-offs]~~;
 - 14 (f) Registers;
 - 15 (g) Types of appointments;
 - 16 (h) Attendance; hours of work; compensatory time; annual, court, military, sick,
17 voting, living organ donor, and special leaves of absence, provided that the
18 secretary shall not promulgate administrative regulations that would reduce
19 the rate at which employees may accumulate leave time below the rate
20 effective on December 10, 1985; and
 - 21 (i) Employee evaluations.
- 22 (2) The secretary shall promulgate comprehensive administrative regulations for the
23 unclassified service.
- 24 (3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate
25 administrative regulations that would reduce an employee's salary; and
- 26 (b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed
27 administrative regulation providing for an initial probationary period in excess

1 of six (6) months to the board for its approval.

2 (4) The secretary may promulgate administrative regulations to implement state
3 government's affirmative action plan under KRS 18A.138.

4 (5) (a) The administrative regulations shall comply with the provisions of this
5 chapter and KRS Chapter 13A, and shall have the force and effect of law after
6 compliance with the provisions of KRS Chapters 13A and 18A and the
7 procedures adopted thereunder;

8 (b) Administrative regulations promulgated by the secretary shall not expand or
9 restrict rights granted to, or duties imposed upon, employees and
10 administrative bodies by the provisions of this chapter; and

11 (c) No administrative body other than the Personnel Cabinet shall promulgate
12 administrative regulations governing the subject matters specified in this
13 section.

14 (6) Prior to filing an administrative regulation with the Legislative Research
15 Commission, the secretary shall submit the administrative regulation to the board
16 for review.

17 (a) The board shall review the administrative regulation proposed by the secretary
18 not less than twenty (20) days after its submission to it;

19 (b) Not less than five (5) days after its review, the board shall submit its
20 recommendations in writing to the secretary;

21 (c) The secretary shall review the recommendations of the board and may revise
22 the proposed administrative regulation if he or she deems it necessary; and

23 (d) After the secretary has completed the review provided for in this section, he
24 or she may file the proposed administrative regulation with the Legislative
25 Research Commission pursuant to the provisions of KRS Chapter 13A.

26 (7) The administrative regulations shall provide:

27 (a) For the preparation, maintenance, and revision of a position classification plan

1 for all positions in the classified service, based upon similarity of duties
2 performed and responsibilities assumed, so that the same qualifications may
3 reasonably be required for, and the same schedule of pay may be equitably
4 applied to, all positions in the same class. The secretary shall allocate the
5 position of every employee in the classified service to one (1) of the classes in
6 the plan. The secretary shall reallocate existing positions, after consultation
7 with appointing authorities, when it is determined that they are incorrectly
8 allocated, and there has been no substantial change in duties from those in
9 effect when such positions were last classified. The occupant of a position
10 being reallocated shall continue to serve in the reallocated position with no
11 reduction in salary;

12 (b) For a pay plan for all employees in the classified service, after consultation
13 with appointing authorities and the state budget director. The plan shall take
14 into account such factors as:

- 15 1. The relative levels of duties and responsibilities of various classes of
16 positions;
- 17 2. Rates paid for comparable positions elsewhere taking into consideration
18 the effect of seniority on such rates; and
- 19 3. The state's financial resources.

20 Amendments to the pay plan shall be made in the same manner. Each
21 employee shall be paid at one (1) of the rates set forth in the pay plan for the
22 class of position in which he or she is employed, provided that the full
23 amount of the annual increment provided for by the provisions of KRS
24 18A.355, and the full amount of an increment due to a promotion, salary
25 adjustment, reclassification, or reallocation, shall be added to an employee's
26 base salary or wages;

27 (c) For the advertisement and acceptance of ~~open competitive examinations to~~

1 ~~test the relative fitness of applicants for the respective positions. The~~
2 ~~examinations shall be announced publicly and} applications for{accepted} at~~
3 ~~least five (5){ten (10)} days for those positions to be filled by classified~~
4 ~~appointment or promotion{prior to certification of a register, and may be~~
5 ~~advertised through the press, radio, and other media}. The secretary~~
6 ~~may{shall} continue to receive applications and review applicants{examine~~
7 ~~candidates} on a continuous basis long enough to ensure{assure} a sufficient~~
8 ~~number of applicants{eligibles to meet the needs of the service. Except as~~
9 ~~provided by this chapter, he shall add the names of successful candidates to~~
10 ~~existing eligible lists in accordance with their respective ratings. The secretary~~
11 ~~shall be free to use any investigation of education and experience and any test~~
12 ~~of capacity, knowledge, manual skill, character, personal traits, or physical~~
13 ~~fitness, which in his judgment, serves the need to discover the relative fitness~~
14 ~~of applicants;~~

15 ~~(d) As provided by this chapter, for the establishment of eligible lists for~~
16 ~~appointment, upon which lists shall be placed the names of successful~~
17 ~~candidates in the order of their relative excellence in the respective~~
18 ~~examinations. Except as provided by this chapter, an eligible's score shall~~
19 ~~expire automatically one (1) year from the date of testing, unless the life of~~
20 ~~the score is extended by action of the secretary for a period not to exceed one~~
21 ~~(1) additional year. Except for those individuals exercising reemployment~~
22 ~~rights, all eligibles may be removed from the register when a new~~
23 ~~examination is established};~~

24 ~~(d){(e)}~~ For the rejection of candidates or eligibles who fail to comply with
25 reasonable requirements of the secretary in regard to such factors as age,
26 physical condition, training, and experience, or who have attempted any
27 deception or fraud in connection with an examination;

1 ~~(e)~~~~(f)~~ Except as provided by this chapter, for the appointment of a person
2 whose score is included in the five (5) highest scores earned on the
3 examination;

4 ~~(f)~~~~(g)~~ For annual, sick, and special leaves of absence, with or without pay, or
5 reduced pay, after approval by the Governor as provided by KRS
6 18A.155(1)(d);

7 ~~(g)~~~~(h)~~ For layoffs~~[lay-offs]~~, in accordance with the provisions of Section 7 of
8 this Act~~[KRS 18A.113, 18A.1131, and 18A.1132]~~, by reasons of lack of
9 work, abolishment of a position, a material change in duties or organization,
10 or a lack of funds;

11 ~~(h)~~~~(i)~~ For the development and operation of programs to improve the work
12 effectiveness of employees in the state service, including training, whether in-
13 service or compensated educational leave, safety, health, welfare, counseling,
14 recreation, employee relations, and employee mobility without written
15 examination;

16 ~~(i)~~~~(j)~~ For a uniform system of annual employee evaluation for classified
17 employees, with status, that shall be considered in determining eligibility for
18 discretionary salary advancements, promotions, and disciplinary actions. The
19 administrative regulations shall:

- 20 1. Require the secretary to determine the appropriate number of job
21 categories to be evaluated and a method for rating each category;
- 22 2. Provide for periodic informal reviews during the evaluation period
23 which shall be documented on the evaluation form and pertinent
24 comments by either the employee or supervisor may be included;
- 25 3. Establish a procedure for internal dispute resolution with respect to the
26 final evaluation rating;
- 27 4. Permit a classified employee, with status, who receives either of the two

1 (2) lowest possible evaluation ratings to appeal to the Personnel Board
 2 for review after exhausting the internal dispute resolution procedure.
 3 The final evaluation shall not include supervisor comments on ratings
 4 other than the lowest two (2) ratings;

5 5. Require that an employee who receives the highest possible rating shall
 6 receive the equivalent of two (2) workdays, not to exceed sixteen (16)
 7 hours, credited to his or her annual leave balance. An employee who
 8 receives the second highest possible rating shall receive the equivalent
 9 of one (1) workday, not to exceed eight (8) hours, credited to his or her
 10 annual leave balance; and

11 6. Require that an employee who receives the lowest possible evaluation
 12 rating shall either be demoted to a position commensurate with the
 13 employee's skills and abilities or be terminated; and

14 ~~(j)(k)~~ For other administrative regulations not inconsistent with this chapter
 15 and KRS Chapter 13A, as may be proper and necessary for its enforcement.

16 (8) For any individual hired or elected to office before January 1, 2015, and paid
 17 through the Kentucky Human Resources Information System, the Personnel
 18 Cabinet shall not require payroll payments to be made by direct deposit or require
 19 the individual to use a web-based program to access his or her salary statement.

20 (9) To the extent that KRS 16.010 to 16.199, 16.080, and 16.584 and administrative
 21 regulations promulgated by the commissioner of the Department of Kentucky State
 22 Police under authority granted in KRS Chapter 16 conflict with this section or any
 23 administrative regulation promulgated by the secretary pursuant to authority
 24 granted in this section, the provisions of KRS Chapter 16 shall prevail.

25 ➔SECTION 7. KRS 18A.113 IS REPEALED AND REENACTED TO READ
 26 AS FOLLOWS:

27 **(1) As used in this section:**

- 1 (a) "Furlough" or "reduction in hours" means the temporary reduction of
2 hours an employee is scheduled to work by the appointing authority within
3 a pay period; and
- 4 (b) "Layoff" means discharge of employment subject to the rights contained in
5 this section.
- 6 (2) An appointing authority shall have the authority to layoff or furlough employees
7 or reduce hours of employment for any of the following reasons:
- 8 (a) Lack of funds or budgetary constraints;
9 (b) A reduction in spending authorization;
10 (c) Lack of work;
11 (d) Abolishment of a position;
12 (e) Efficiency; or
13 (f) Other material change in duties or organization.
- 14 (3) The appointing authority shall determine the classifications affected, the number
15 of employees laid-off in each classification, and each county to which a layoff
16 applies. In the same department or office, county, and job classification, interim
17 and probationary employees shall be laid-off before full-time or part-time
18 employees with status. For purposes of layoff, "probationary employee" shall not
19 include an employee with status serving a promotional probation.
- 20 (4) The provisions of this section shall not apply to federally funded time-limited
21 employees.
- 22 (5) The secretary of the Personnel Cabinet shall approve all actions taken under
23 subsection (2) of this section and no such layoff, furlough, or reduction of hours
24 may begin until the approval has been granted. The appointing authority, with
25 the approval of the secretary, shall have the authority to determine the extent,
26 effective dates, and length of any action taken under subsection (2) of this
27 section.

1 (6) In determining a layoff, the appointing authority shall consider all employees
2 under the same appointing authority, within the classification affected, and
3 within the county affected. Consideration shall be given to the following relevant
4 factors and in this order:

5 (a) Job performance evaluations;

6 (b) Education, training, and experience;

7 (c) Disciplinary record; and

8 (d) Seniority.

9 (7) Any classified employee with status whose position is subject to layoff, furlough,
10 or reduction of hours shall be provided written notice containing the reason for
11 the action at least thirty (30) days in advance of the effective date of the action.

12 (8) (a) Any classified employee with status who is laid off shall be eligible to apply
13 as a reemployment applicant for the job classification from which he or she
14 was laid-off, in the cabinet from which he or she was laid-off for a period of
15 two (2) years. A reemployment applicant shall be hired before any applicant
16 except another reemployment applicant with greater seniority who is on the
17 same register.

18 (b) A reemployment applicant shall not be removed from any register except as
19 provided in Section 3 of this Act.

20 (c) When a reemployment applicant is removed from a register, he or she shall
21 be notified in writing or electronically and shall have the right to appeal to
22 the board within thirty (30) calendar days after receipt of the notification,
23 excluding the day he or she receives notice.

24 (d) A reemployment applicant who accepts any classified position, or who
25 retires through the Kentucky Employees Retirement System or Kentucky
26 Teachers Retirement System, shall cease to have eligibility rights as a
27 reemployment applicant.

1 **(9) With the approval of the secretary, the Personnel Cabinet may place employees**
 2 **subject to a reduction in workforce in a different position.**

3 **(10) The secretary shall promulgate administrative regulations pursuant to KRS**
 4 **Chapter 13A to fully implement the provisions of this section.**

5 **(11) A layoff, furlough, or reduction of hours implemented in accordance with this**
 6 **section shall not be appealable to the Personnel Board.**

7 ➔Section 8. KRS 48.130 is amended to read as follows:

8 (1) The General Assembly shall include in each enacted branch budget bill a budget
 9 reduction plan for a revenue shortfall in the general fund or road fund of five
 10 percent (5%) or less. The budget reduction plan shall direct how budget reductions
 11 shall be implemented if there is a revenue shortfall of five percent (5%) or less.

12 (2) A ~~layoff~~ ~~lay-off~~ of state employees in the executive branch under the budget
 13 reduction plan enacted by the General Assembly shall comply with the provisions
 14 of **Section 7 of this Act**~~[KRS 18A.1132]~~.

15 (3) Any revenue shortfall in the general fund or road fund of greater than five percent
 16 (5%) shall require action by the General Assembly.

17 (4) Upon the issuance of an official revenue estimate by the consensus forecasting
 18 group reflecting a revenue shortfall in the general fund or road fund, or upon the
 19 existence of an actual revenue shortfall in the general fund or road fund at the close
 20 of a fiscal year as determined by the Office of State Budget Director, the Office of
 21 State Budget Director shall notify all branches of government. If the revenue
 22 shortfall is five percent (5%) or less, the following actions shall be taken:

23 (a) The unappropriated balance of funds in the surplus accounts of the general
 24 fund or road fund shall first be used to meet the shortfalls in those respective
 25 funds; and

26 (b) If the amounts described in paragraph (a) of this subsection are insufficient to
 27 address the revenue shortfall, the enacted budget reduction plan included in

1 each branch budget bill shall be implemented.

2 (5) The budget reduction plan for each branch of government may provide that the
3 annual increment granted state employees under KRS 18A.355 shall be reduced as
4 provided by KRS 18A.355. Any reduction of the annual increment shall be uniform
5 for all employees.

6 (6) No budget reduction action shall be taken by any branch head in excess of the
7 actual or projected deficit.

8 (7) If general fund or road fund tax receipts increase over the revenues estimated in the
9 official revenue estimate that resulted in reductions, then services may be restored
10 in the reverse order of the reduced services.

11 ➔Section 9. KRS 18A.025 is amended to read as follows:

12 (1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015,
13 who shall be considered an employee of the state. The secretary shall be a graduate
14 of an accredited college or university and have at least five (5) years' experience in
15 personnel administration or in related fields, have known sympathies with the merit
16 principle in government, and shall be dedicated to the preservation of this principle.
17 Additional education may be substituted for the required experience and additional
18 experience may be substituted for the required education.

19 (2) The secretary of the Personnel Cabinet or the secretary's designee shall be
20 responsible for the coordination of the state's affirmative action plan established
21 by KRS 18A.138.

22 (3) There is established within the Personnel Cabinet the following offices,
23 departments, and divisions, each of which shall be headed by either a
24 commissioner, executive director, or division director appointed by the secretary,
25 subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050,
26 depending on the level of the appointment, except that the Kentucky Employees
27 Deferred Compensation Authority shall be headed by an executive director who

1 shall be appointed by the authority's board of directors:

2 (a) Office of the Secretary, which shall be responsible for communication with
3 state employees about personnel and other relevant issues and for the
4 administration and coordination of the following:

5 1. Office of Employee Relations, composed of the following programs:

6 a. Workers' Compensation Program pursuant to KRS 18A.375;

7 b. Sick leave Sharing Program, pursuant to KRS 18A.197;

8 c. Annual Leave Sharing Program, pursuant to KRS 18A.203;

9 d. Health and Safety Program;

10 e. Employee Assistance Program;

11 f. Employee Incentive Programs, pursuant to KRS 18A.202;

12 g. Employee Mediation Program; and

13 h. Living Organ Donor Leave Program, pursuant to KRS 18A.194;

14 2. Office of Administrative Services, which shall be responsible for the
15 Personnel Cabinet's administrative functions, composed of the following
16 programs:

17 a. Division of Technology Services;

18 b. Division of Human Resources; and

19 c. Division of Financial Services;

20 3. Office of Legal Services, which shall provide legal services to the
21 Personnel Cabinet and to executive branch agencies and their
22 representatives upon request;

23 4. Office of Diversity, Equality, and Training, which shall coordinate and
24 implement diversity initiatives for state agencies, the affirmative action
25 plan established by KRS 18A.138, the state Equal Employment
26 Opportunity Program, and the Minority Management Trainee Program;

27 5. Governmental Services Center, which shall be responsible for employee

- 1 and managerial training and organizational development;
- 2 6. Kentucky Public Employees Deferred Compensation Authority, which
- 3 shall maintain a deferred compensation plan for state employees; and
- 4 7. Office of Public Affairs, which shall assist in all aspects of developing
- 5 and executing the strategic direction of the cabinet;
- 6 (b) Department of Human Resources Administration, which shall be composed of
- 7 the:
- 8 1. Division of Employee Management, which shall be responsible for
- 9 payroll, records, classification, and compensation. The division shall
- 10 also be responsible for implementing layoff~~[lay off]~~ plans mandated by
- 11 Section 7 of this Act~~[KRS 18A.113 to 118A.1132]~~ and shall monitor
- 12 and assist state agencies in complying with the provisions of the federal
- 13 Fair Labor Standards Act. The division shall:
- 14 a. Maintain the central personnel files mandated by KRS 18A.020
- 15 and process personnel documents and position actions;
- 16 b. Operate and maintain a uniform payroll system and certify
- 17 payrolls as required by KRS 18A.125;
- 18 c. Maintain plans of classification and compensation for state service
- 19 and review and evaluate the plans; and
- 20 d. Coordinate and implement the employee performance evaluation
- 21 systems throughout state government; and
- 22 2. Division of Career Opportunities, which shall be responsible for
- 23 employment counseling, applicant processing, employment register, and
- 24 staffing analysis functions. The division shall:
- 25 a. Operate a centralized applicant and employee counseling program;
- 26 b. Operate, coordinate, and construct the examination program for
- 27 state employment;

- 1 c. Prepare registers of candidate employment; and
- 2 d. Coordinate outreach programs, such as recruitment and the
- 3 Administrative Intern Program; and
- 4 (c) Department of Employee Insurance, which shall be responsible for the:
- 5 1. Health Insurance Program, pursuant to KRS 18A.225;
- 6 2. Flexible Benefit Plan, pursuant to KRS 18A.227;
- 7 3. Division of Insurance Administration, which shall be responsible for
- 8 enrollment and service functions;
- 9 4. Division of Financial and Data Services, which shall be responsible for
- 10 fiscal and data analysis functions; and
- 11 5. Life Insurance Program pursuant to KRS 18A.205 to 18A.220.
- 12 (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to
- 13 KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and
- 14 implementation of policy. The secretary may employ, pursuant to the provisions of
- 15 this chapter, personnel necessary to execute the functions and duties of the
- 16 department.
- 17 ➔Section 10. KRS 18A.0751 is amended to read as follows:
- 18 (1) The board shall promulgate comprehensive administrative regulations for the
- 19 classified service governing:
- 20 (a) Appeals by state employees;
- 21 (b) Demotion;
- 22 (c) Dismissal;
- 23 (d) Fines, suspensions, and other disciplinary measures;
- 24 (e) Probation, provided that the board may not require an initial probationary
- 25 period in excess of six (6) months except as provided in subsection (4)(e) of
- 26 this section and KRS 18A.005;
- 27 (f) Promotion;

- 1 (g) Reinstatement;
- 2 (h) Transfer; and
- 3 (i) Employee grievances and complaints.
- 4 (2) (a) These administrative regulations shall comply with the provisions of this
5 chapter and KRS Chapter 13A, and shall have the force and effect of law,
6 when approved by the board, after compliance with the provisions of KRS
7 Chapters 13A and 18A and the procedures adopted thereunder;
- 8 (b) Administrative regulations promulgated by the board shall not expand or
9 restrict rights granted to, or duties imposed upon, employees and
10 administrative bodies by the provisions of this chapter; and
- 11 (c) No administrative body, other than the personnel board, shall promulgate
12 administrative regulations governing the subject matters specified in this
13 section.
- 14 (3) Prior to filing an administrative regulation with the Legislative Research
15 Commission, the board shall submit the administrative regulation to the secretary
16 for review:
- 17 (a) The secretary shall review the administrative regulation proposed by the board
18 not more than twenty (20) days after its submission to him or her;
- 19 (b) Not more than five (5) days after his review, the secretary shall submit his or
20 her recommendations in writing to the board;
- 21 (c) The board shall review the recommendations of the secretary and may revise
22 the proposed administrative regulation as it deems necessary; and
- 23 (d) After the board has completed the review provided for in this section, it may
24 file the proposed administrative regulation with the Legislative Research
25 Commission pursuant to the provisions of KRS Chapter 13A.
- 26 (4) These administrative regulations shall provide:
- 27 (a) For the procedures to be utilized by the board in the conduct of hearings by

- 1 the board, consistent with the provisions of KRS Chapter 13B;
- 2 (b) For reduction in rank or grade as provided by this chapter;
- 3 (c) For discharge, as provided by this section;
- 4 (d) For imposition, as disciplinary measures, of a fine of not more than ten (10)
- 5 working days' pay, or for suspension from the service without pay for no
- 6 longer than thirty (30) working days and, in accordance with the provisions of
- 7 KRS 18A.095, for the manner of notification of the employee of the discipline
- 8 and his *or her* right of appeal;
- 9 (e) No probationary period may exceed twelve (12) months, except as provided in
- 10 KRS 18A.005. The secretary may recommend an initial probationary period
- 11 in excess of six (6) months for specific job classifications to the board. This
- 12 recommendation shall take the form of a proposed administrative regulation
- 13 that shall be submitted to the board for approval. The subject of the
- 14 administrative regulation shall be limited to job classifications for which an
- 15 initial probationary period in excess of six (6) months is required and shall
- 16 specify:
- 17 1. The job classification for which an initial probationary period in excess
- 18 of six (6) months is required; and
- 19 2. The specific number of months constituting the initial probationary
- 20 period for the job classification. No other administrative regulation shall
- 21 include any provision prescribing an initial probationary period in
- 22 excess of six (6) months, except as provided in KRS 18A.005. Upon
- 23 approval by the board of the proposed administrative regulation
- 24 provided for in this paragraph, the board shall file the regulation with
- 25 the Legislative Research Commission as provided by KRS Chapter 13A;
- 26 (f) For promotions which shall give appropriate consideration to the applicant's
- 27 qualifications, record of performance, conduct, and seniority. Except as

1 provided by this chapter, vacancies shall be filled by promotion whenever
2 practicable and in the best interest of the service;

3 (g) For reemployment of laid-off employees in accordance with the provisions of
4 this chapter;

5 (h) For transfer from a position in one (1) department to a similar position in
6 another department involving similar qualifications, duties, responsibilities,
7 and salary ranges as provided by the provisions of Section 7 of this Act ~~KRS~~
8 ~~18A.1131(3)(a)~~;

9 (i) For establishment of a plan for resolving employee grievances and
10 complaints. This plan shall not restrict rights granted employees by the
11 provisions of this chapter;

12 (j) For promotion of career employees to positions in the unclassified service
13 without loss of status to the individual employees so promoted, as provided by
14 this chapter; and

15 (k) For any other administrative regulations not inconsistent with this chapter and
16 KRS Chapter 13A as may be proper and necessary for its enforcement.

17 ➔Section 11. KRS 18A.100 is amended to read as follows:

18 (1) Any final order of the board either upholding or invalidating the dismissal,
19 demotion, or suspension ~~[, or other penalization]~~ of a classified or an unclassified
20 employee may be appealed either by the employee or by the appointing authority.

21 (2) The party aggrieved may appeal a final order by filing a petition with the clerk of
22 the Franklin Circuit Court in accordance with KRS Chapter 13B.

23 ➔Section 12. KRS 18A.355 is amended to read as follows:

24 (1) An annual increment of not less than five percent (5%) of the base salary or wages
25 of each state employee shall be granted to each employee on his or her anniversary
26 date. The employee's base salary or wages shall be increased by the amount of the
27 annual increment. When any increment due to a promotion, reallocation,

1 reclassification or salary adjustment is granted an employee, the employee's base
 2 salary or wages shall be increased by the amount of such increment. An employee's
 3 base salary or wages shall not be increased by the amount of lump-sum payment
 4 awarded under subsection (7)(i) of Section 6 of this Act~~[KRS 18A.110(7)(j)]~~.

5 (2) The branch budget recommendation submitted to the General Assembly under KRS
 6 Chapter 48 shall include a request for the amount of the annual increment expressed
 7 as a percentage of each employee's base salary or wages and a request for the total
 8 appropriation needed to fund the annual increment. The annual increment shall be
 9 uniform for all employees. The financial plan enacted under the provisions of KRS
 10 48.300 shall contain the annual increment expressed as a percentage of each
 11 employee's base salary or wages, and the total appropriation needed to fund the
 12 annual increment.

13 (3) The budget reduction plan submitted and enacted under the provisions of KRS
 14 Chapter 48 shall provide that a reduction of the annual increment granted under this
 15 section shall be made only after other cost savings measures, as provided by
 16 Section 7 of this Act~~[KRS 18A.1132]~~, are taken. Any such reduction shall be
 17 uniform for all state employees and shall comply with the provisions of this chapter
 18 and KRS Chapter 48.

19 ➔Section 13. KRS 61.371 is amended to read as follows:

20 As used in KRS 61.371 to 61.377~~[61.379]~~, unless the context otherwise requires:

21 (1) "Public employee" means a person appointed to a position in public service for
 22 which he or she is compensated on a full-time basis, excluding elected officers;

23 (2) "Public service" means employment by the Commonwealth of Kentucky, or by any
 24 county, city, or political subdivision or by any department, board, agency, or
 25 commission thereof;

26 (3) "Employer" means the officer, employee, board, commission or agency authorized
 27 by law to make appointments to a position in public service;

1 (4) "Position" means an office or employment in the public service, excluding an office
2 filled by popular election;

3 (5) "Military duty" means training and service performed by an inductee, enlistee, or
4 reservist or any entrant into a temporary component of the armed forces of the
5 United States, and time spent in reporting for and returning from such training and
6 service, or if a rejection occurs, from the place of reporting therefor. "Military duty"
7 shall not include voluntary active duty for training of an individual as a reservist in
8 the Armed Forces of the United States;

9 (6) "Board" means the personnel board established by KRS Chapter 18A;

10 (7) "Seniority" means the increase in compensation, status, and responsibility resulting
11 from promotion or step progression within a class of a classified service or
12 promotion or increase in compensation, status, and responsibility in the unclassified
13 service.

14 ➔Section 14. KRS 61.373 is amended to read as follows:

15 (1) Any public employee who leaves a position after June 16, 1966, voluntarily or
16 involuntarily, in order to perform military duty, and who is relieved or discharged
17 from such duty under conditions other than dishonorable, and who has not been
18 absent from public employment due to military duty in time of war or national or
19 state emergency for a period of time longer than the duration of the war or national
20 or state emergency plus six (6) months or in time of peace for a period of time not
21 longer than six (6) years, and makes application for reemployment within ninety
22 (90) days after he or she is relieved from military duty or from hospitalization or
23 treatment continuing after discharge for a period of not more than one (1) year:

24 (a) If still physically qualified to perform the duties of his or her position, shall
25 be restored to such position if it exists and is not held by a person with greater
26 seniority, otherwise to a position of like seniority, status, and pay;

27 (b) If not qualified to perform the duties of his or her position by reason of

1 disability sustained during such service, the public employee shall be placed
2 in another position, the duties of which he or she is qualified to perform and
3 which will provide him or her like seniority, status, and pay, or the nearest
4 approximation thereof consistent with the circumstances of his or her case.

5 (2) (a) Officers and employees of this state, or any department or agency thereof,
6 shall be granted a leave of absence by their employers for the period required
7 to perform active duty or training in the National Guard or any reserve
8 component of the Armed Forces of the United States.

9 (b) Upon the officer's or employee's release from a period of active duty or
10 training, except as provided in KRS 61.394, he or she shall be permitted to
11 return to his or her former position of employment or a position with
12 equivalent seniority, status, pay, and any other rights or benefits that would
13 have been bestowed if he or she had not been absent.

14 (c) An officer or employee who is not permitted to return to his or her former
15 position may appeal the dismissal in accordance with KRS Chapter 18A.

16 (3) In the case of any person who is entitled to be restored to a position in accordance
17 with KRS 61.371 to ~~61.377~~^{61.379}, if the personnel board finds that the
18 department or agency with which such person was employed immediately prior to
19 his or her military duty:

20 (a) Is no longer in existence and its functions have not been transferred to any
21 other agency; or

22 (b) For any reason it is not feasible for such person to be restored to employment
23 by the department or agency, the board shall determine whether or not there is
24 a position in any other department or agency of the same public employer for
25 which the person is qualified and which is either vacant or held by a person
26 having a temporary appointment thereto. In any case in which the board
27 determines that there is such a position, the person shall be restored to the

1 position by the department or agency in which the position exists.

2 ➔Section 15. KRS 61.375 is amended to read as follows:

3 Any person who is restored to a position in accordance with KRS 61.371 to
4 ~~61.377~~~~[61.379]~~ shall not be discharged from his or her position without cause within one
5 (1) year after his or her restoration, and shall, without limiting other rights conferred by
6 this or other sections, be considered as having been on furlough or leave of absence
7 during his or her period of military duty. He or she shall be restored without loss of
8 seniority, including, upon promotion or other advancement following completion of any
9 period of employment required therefor, a seniority date in the advance position which
10 will place him or her ahead of all persons previously junior to him or her who advanced
11 to the position during his or her absence in the Armed Forces.

12 ➔Section 16. The following KRS sections are repealed:

13 61.379 Rules and regulations -- Appeals from failure to restore or discharge --
14 Procedure.

15 18A.1131 Lay-off rules applicable to classified employees only.

16 18A.1132 Lay-off rules applicable to both classified and unclassified employees.