

1 AN ACT relating to the profession of education and declaring an emergency.

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

3 ➔Section 1. KRS 161.120 is amended to read as follows:

4 (1) Except as described in KRS 161.795, the Education Professional Standards Board  
5 may revoke, suspend, or refuse to issue or renew; impose probationary or  
6 supervisory conditions upon; issue a written reprimand or admonishment; or any  
7 combination of those actions regarding any certificate issued under KRS 161.010 to  
8 161.100, or any certificate or license issued under any previous law to  
9 superintendents, principals, teachers, substitute teachers, interns, supervisors,  
10 directors of pupil personnel, or other administrative, supervisory, or instructional  
11 employees for the following reasons:

12 (a) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to,  
13 notwithstanding an order granting probation or suspending imposition of any  
14 sentence imposed following the conviction or entry of the plea, one (1) of the  
15 following:

- 16 1. A felony;
- 17 2. A misdemeanor under KRS Chapter 218A, 508, 509, 510, 522, 525,  
18 529, 530, or 531; or
- 19 3. A misdemeanor involving a student or minor.

20 A certified copy of the conviction or plea shall be conclusive evidence of the  
21 conviction or plea;

22 (b) Having sexual contact as defined in KRS 510.010(7) with a student or minor.  
23 Conviction in a criminal proceeding shall not be a requirement for  
24 disciplinary action;

25 (c) Committing any act that constitutes fraudulent, corrupt, dishonest, or immoral  
26 conduct. If the act constitutes a crime, conviction in a criminal proceeding  
27 shall not be a condition precedent to disciplinary action;

- 1 (d) Demonstrating willful or careless disregard for the health, welfare, or safety  
2 of others;
- 3 (e) Physical or mental incapacity that prevents the certificate holder from  
4 performing duties with reasonable skill, competence, or safety;
- 5 (f) Possessing, using, or being under the influence of alcohol, which impairs the  
6 performance of duties;
- 7 (g) Unlawfully possessing or unlawfully using a drug during the performance of  
8 duties;
- 9 (h) Incompetency or neglect of duty;
- 10 (i) Making, or causing to be made, any false or misleading statement or  
11 concealing a material fact in obtaining issuance or renewal of any certificate;
- 12 (j) Failing to report as required by subsection (3)~~[(2)]~~ of this section;
- 13 (k) Failing to comply with an order of the Education Professional Standards  
14 Board;
- 15 (l) Violating any state statute relating to schools or the teaching profession;
- 16 (m) Violating the professional code of ethics for Kentucky school certified  
17 personnel established by the Education Professional Standards Board through  
18 the promulgation of administrative regulation;
- 19 (n) Violating any administrative regulation promulgated by the Education  
20 Professional Standards Board or the Kentucky Board of Education; or
- 21 (o) Receiving disciplinary action or having the issuance of a certificate denied or  
22 restricted by another jurisdiction on grounds that constitute a violation of this  
23 subsection.

24 (2) **The Education Professional Standards Board shall respond to complaints against**  
25 **a certificate holder by the following process:**

26 **(a) Within twenty (20) business days of the receipt of a complaint, board staff**  
27 **shall conduct an initial review to determine whether there is sufficient**

1 evidence that a violation may have occurred and shall provide notice of the  
2 initial determination to the certificate holder within five (5) business days  
3 that shall include the complete copy of the report and all underlying  
4 relevant documents and records;

5 (b) Upon receipt of the notice, the certificate holder shall have twenty (20)  
6 business days to respond or provide a rebuttal to any complaint that was  
7 determined to contain sufficient evidence that a violation may have  
8 occurred. The response period shall be extended an additional twenty (20)  
9 business days upon the certificate holder's written request submitted to the  
10 board;

11 (c) Within ten (10) business days of the receipt of the certificate holder's  
12 response or the end of the response period established in paragraph (b) of  
13 this subsection, board staff shall conduct another review of the complaint to  
14 determine if sufficient evidence exists to support a violation. If the board  
15 staff determines that the evidence is:

16 1. Insufficient, then the board staff shall recommend dismissal and shall  
17 notify the certificate holder and the complainant of the  
18 recommendation within five (5) business days of the determination; or

19 2. Sufficient, then the board staff shall have five (5) business days to  
20 notify the certificate holder and the complainant of the determination.  
21 Notice to the complainant shall only state that further proceedings will  
22 occur;

23 (d) Upon a determination that sufficient evidence exists to support a possible  
24 violation, within the notice required under paragraph (c)2. of this  
25 subsection, board staff shall initiate an in-person or virtual conference with  
26 the certificate holder to share information and to determine if an agreed  
27 resolution can be recommended to the board concerning the alleged

1 violation. The conference shall be scheduled within twenty (20) business  
 2 days of the determination. The certificate holder may decline the  
 3 conference. If the conference does not occur due to the certificate holder's  
 4 failure to respond within the twenty (20) business days, the required  
 5 conference shall be considered waived. The certificate holder may have an  
 6 attorney present at the conference;

7 (e) Upon the conclusion of the conference, or the twenty (20) business day  
 8 response period if the conference is declined or waived, the board shall act  
 9 on the complaint within twenty (20) business days. If the board fails to act  
 10 on the complaint within the twenty (20) business days, then the complaint  
 11 shall be considered dismissed. The board shall consider the entirety of the  
 12 complaint with any associated response or recommended agreed resolution  
 13 to determine:

14 1. Dismissal, conditional dismissal upon completion of training,  
 15 admonishment, further investigation, or initiation of a hearing;

16 2. Approval of the recommended agreed resolution; or

17 3. A deferral if:

18 a. The content of the complaint is subject to ongoing:

19 i. Criminal investigation or proceedings;

20 ii Child abuse, dependency, or neglect investigation by an  
 21 authorized state agency; or

22 iii. Teacher tribunal process as provided in KRS 161.790; or

23 b. The deferral is agreed to by the certificate holder; and

24 (f) The provision of a confirmation of receipt from the board to the certificate  
 25 holder whenever the certificate holder submits a response or  
 26 correspondence to the board.

27 (3) (a) The superintendent of each local school district shall report in writing to the

1 Education Professional Standards Board the name, address, phone number,  
2 Social Security number, and position name of any certified school employee  
3 in the employee's district whose contract is terminated or not renewed, for  
4 cause except failure to meet local standards for quality of teaching  
5 performance prior to the employee gaining tenure; who resigns from, or  
6 otherwise leaves, a position under threat of contract termination, or  
7 nonrenewal, for cause; who is convicted in a criminal prosecution; or who  
8 otherwise may have engaged in any actions or conduct while employed in the  
9 school district that might reasonably be expected to warrant consideration for  
10 action against the certificate under subsection (1) of this section. The duty to  
11 report shall exist without regard to any disciplinary action, or lack thereof, by  
12 the superintendent, and the required report shall be submitted within twenty  
13 (20) business~~[thirty (30)]~~ days of the event giving rise to the duty to report.

14 (b) The district superintendent shall inform the Education Professional Standards  
15 Board in writing of the full facts and circumstances leading to the contract  
16 termination or nonrenewal, resignation, or other absence, conviction, or  
17 otherwise reported actions or conduct of the certified employee, that may  
18 warrant action against the certificate under subsection (1) of this section, and  
19 shall forward copies of all relevant documents and records in his possession.

20 (c) The Education Professional Standards Board shall provide the  
21 superintendent confirmation of receipt of any report submitted by the  
22 superintendent within five (5) business days and shall provide the  
23 superintendent with notice of:

24 1. Whether or not board staff determine that there is sufficient evidence  
25 in the report that a violation may have occurred; and

26 2. Any board action taken against the certificate holder who is the  
27 subject of the report.

1        **(d)** The Education Professional Standards Board may consider reports and  
 2        information received from other sources.

3        **(e)**~~**(d)**~~ The certified school employee shall be given a copy of any report  
 4        provided to the Education Professional Standards Board by the district  
 5        superintendent or other sources. The employee shall have the right to file a  
 6        written rebuttal **pursuant to subsection 2 of this section** to the report which  
 7        shall be placed in the official file with the report.

8        **(4)**~~**(3)**~~ A finding or action by a school superintendent or tribunal does not create a  
 9        presumption of a violation or lack of a violation of subsection (1) of this section.

10       **(5)**~~**(4)**~~ The board may issue a written admonishment to the certificate holder if the  
 11       board determines, based on the evidence, that a violation has occurred that is not of  
 12       a serious nature. A copy of the written admonishment shall be placed in the official  
 13       file of the certificate holder. The certificate holder may respond in writing to the  
 14       admonishment within **twenty (20) business**~~**thirty (30)**~~ days of receipt and have  
 15       that response placed in his official certification file. Alternatively, the certificate  
 16       holder may file a request for a hearing with the board within **twenty (20)**  
 17       **business**~~**thirty (30)**~~ days of receipt of the admonishment. Upon receipt of a request  
 18       for a hearing, the board shall set aside the written admonishment and set the matter  
 19       for hearing pursuant to the provisions of KRS Chapter 13B **within twenty (20)**  
 20       **business days of receipt of the request.**

21       **(6)**~~**(5)**~~ (a) **In accordance with the timeline provided for in this section,** the  
 22       Education Professional Standards Board shall schedule and conduct a hearing  
 23       in accordance with KRS Chapter 13B:

24       1. **Upon determining that a complaint warrants possible**~~**Before**~~  
 25       revoking, suspending, refusing to renew, imposing probationary or  
 26       supervisory conditions upon, issuing a written reprimand, or any  
 27       combination of these actions regarding any certificate;

- 1           2. After denying an application for a certificate, upon written request filed  
2           within twenty (20) business~~thirty (30)~~ days of receipt of the letter  
3           advising of the denial; or
- 4           3. After issuing a written admonishment, upon written request for a  
5           hearing filed within twenty (20) business~~thirty (30)~~ days of receipt of  
6           the written admonishment.
- 7           (b) *If after the hearing required under paragraph (a) of this subsection is*  
8           *scheduled and the certificate holder or applicant believes the hearing is not*  
9           *timely, the certificate holder or applicant may submit a request for an*  
10           *expedited hearing, and the hearing shall be conducted within twenty (20)*  
11           *business days of the request.*
- 12           (c) Upon request, a hearing may be public or private at the discretion of the  
13           certified employee or applicant.
- 14           ~~(d)(e)~~ The hearing shall be conducted before ~~the full board, a panel of three~~  
15           ~~(3) members of the board, or a person appointed as a~~ hearing officer secured  
16           from the Attorney General's office ~~by the board~~ pursuant to KRS  
17           13B.030~~(2)(b)(1)~~.
- 18           (e) *The hearing shall afford the certificate holder all the rights secured under*  
19           *KRS Chapter 13B.*
- 20           ~~(7)(6)~~ The Education Professional Standards Board or its chair may take emergency  
21           action pursuant to KRS 13B.125. Emergency action shall not affect a certificate  
22           holder's contract or tenure rights in the school district.
- 23           ~~(8)(7)~~ If the Education Professional Standards Board substantiates that sexual  
24           contact occurred between a certified employee and a student or minor, the  
25           employee's certificate may be revoked or suspended with mandatory treatment of  
26           the employee as prescribed by the Education Professional Standards Board. The  
27           Education Professional Standards Board may require the employee to pay a

1 specified amount for mental health services for the student or minor which are  
2 needed as a result of the sexual contact.

3 ~~(9)~~ At any time during the investigative or hearing processes, the board may enter  
4 into an agreed order or accept an assurance of voluntary compliance with the  
5 certificate holder.

6 ~~(10)~~ The board may reconsider, modify, or reverse its decision on any disciplinary  
7 action.

8 ~~(11)~~ Suspension of a certificate shall be for a specified period of time, not to  
9 exceed two (2) years.

10 (a) At the conclusion of the specified period, upon demonstration of compliance  
11 with any educational requirements and the terms set forth in the agreed order,  
12 the certificate shall be reactivated.

13 (b) A suspended certificate is subject to expiration and termination.

14 ~~(12)~~ Revocation of a certificate is a permanent forfeiture. The board shall establish  
15 the minimum period of time before an applicant can apply for a new certificate.

16 (a) At the conclusion of the specified period, and upon demonstration of  
17 compliance with any educational requirements and the terms set forth in the  
18 agreed order, the applicant shall bear the burden of proof to show that he or  
19 she is again fit for practice.

20 (b) The board shall have discretion to impose conditions that it deems reasonably  
21 appropriate to ensure the applicant's fitness and the protection of public  
22 safety. Any conditions imposed by the board shall address or apply to only  
23 that time period after the revocation of the certificate.

24 ~~(13)~~ An appeal from any final order of the Education Professional Standards Board  
25 shall be filed in Franklin Circuit Court **or the Circuit Court of the county in which**  
26 **the certificate holder was employed when the incident occurred** in accordance  
27 with KRS Chapter 13B **which provides that all final orders of an agency shall be**



1 *subject to judicial review.*