

1 AN ACT relating to educators.

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) 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 a  
25 certificate holder by the following process:
- 26 (a) ~~[1. Except as provided in subparagraph 2. of this paragraph,]~~ Within thirty  
27 (30) calendar days of the receipt of a completed complaint, board staff shall

1           conduct an initial review to determine whether there is sufficient evidence that  
2           a violation may have occurred and shall provide notice of the initial  
3           determination to the certificate holder within seven (7) business days that  
4           shall include the complete copy of the report and all underlying relevant  
5           documents and records. If the complaint alleges unauthorized electronic  
6           communication as defined in KRS 160.145, sexual contact, or other sexual  
7           misconduct, the identity of a complainant that is not the superintendent and  
8           any identifying information of the minor involved **shall not be subject to**  
9           **public disclosure pursuant to the Kentucky Open Records Act, KRS 61.870**  
10          **to 61.884** in the complaint shall remain confidential.

11          ~~2. When a complaint alleges unauthorized electronic communication, as~~  
12           ~~defined in KRS 160.145, sexual contact, or other sexual misconduct, the~~  
13           ~~board staff shall have one hundred twenty (120) days to conduct the~~  
14           ~~initial review required by subparagraph 1. of this paragraph];~~

15          (b) Upon receipt of the notice, the certificate holder shall have thirty (30)  
16           calendar days to respond or provide a rebuttal to any complaint that was  
17           determined to contain sufficient evidence that a violation may have occurred.  
18           The response period shall be extended an additional thirty (30) calendar days  
19           upon the certificate holder's written request submitted to the board;

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

25           1. Insufficient, then the board staff shall recommend dismissal and shall  
26           notify the certificate holder and the complainant of the recommendation  
27           within seven (7) business days of the determination; or

1           2.   Sufficient, then the board staff shall have seven (7) business days to  
2           notify the certificate holder and the complainant of the determination.  
3           Notice to the complainant shall only state that further proceedings will  
4           occur;

5       (d) ~~{Upon a determination that sufficient evidence exists to support a possible~~  
6       ~~violation, within the notice required under paragraph (c)2. of this subsection,~~  
7       ~~board staff shall initiate an in person or virtual conference with the certificate~~  
8       ~~holder to share information and to determine if an agreed resolution can be~~  
9       ~~recommended to the board concerning the alleged violation. The conference~~  
10      ~~shall be scheduled within thirty (30) calendar days of the determination. The~~  
11      ~~certificate holder may decline the conference. If the conference does not occur~~  
12      ~~due to the certificate holder's failure to respond within the thirty (30) calendar~~  
13      ~~days, the required conference shall be considered waived. The certificate~~  
14      ~~holder may have an attorney present at the conference;~~

15      (e) ~~{~~Within~~{Upon the conclusion of the}~~ thirty (30) calendar days **of the board**  
16      **staff determination**~~{conference period}, the board shall act on the complaint{~~  
17      ~~within thirty (30) calendar days}. If the board fails to act on the complaint~~  
18      within the thirty (30) calendar days, then the complaint shall be considered  
19      dismissed. The board shall consider the entirety of the complaint with any  
20      associated response or recommended agreed resolution to determine:

21           1.   Dismissal or~~{,}~~ conditional dismissal upon completion of training;~~{,}~~

22           2.   *Issuance of a written admonishment to the certificate holder if the*  
23               *board determines, based on the evidence, that a violation has occurred*  
24               *that is not of a serious nature. Once the determination has been made,*  
25               *notice shall be provided to the certificate holder of the action with a*  
26               *copy of the written admonishment. The certificate holder may respond*  
27               *to the notice in writing within thirty (30) calendar days of receipt and*

1 have the response placed in his or her official certification file.  
 2 Alternatively, the certificate holder may file a request for a hearing  
 3 with the board within thirty (30) calendar days of receipt of the notice.  
 4 Upon receipt of a request for a hearing, the board shall set aside the  
 5 written admonishment and refer the matter for a hearing under  
 6 subsection (3) of this section within thirty (30) calendar days of receipt  
 7 of the request. If after thirty (30) days of receipt of the notice the  
 8 certificate holder has not requested a hearing, the written  
 9 admonishment shall be placed in the official certification file of the  
 10 certificate holder along with any timely written  
 11 response;~~admonishment~~

12 3. Referral of the complaint to a hearing because the complaint may  
 13 warrant possible revocation, suspension, refusal to renew, imposition  
 14 of probationary or supervisory conditions upon, issuance of a formal  
 15 written reprimand, or any combination of these actions regarding any  
 16 certificate, or further investigation~~, or initiation of a hearing~~;

17 4.~~[2.]~~ Approval of the recommended agreed resolution; or

18 5.~~[3.]~~ A deferral if:

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

20 i. Criminal investigation or proceedings;

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

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

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

25 (f) The board staff shall provide~~provision of~~ a confirmation of receipt ~~from~~  
 26 ~~the board~~ to the certificate holder whenever the certificate holder submits a  
 27 response or correspondence to the board.

1 (3) The Education Professional Standards Board shall schedule and conduct  
2 hearings in accordance with KRS Chapter 13B subject to the following:

3 (a) A hearing shall occur:

4 1. Upon referral under subsection (2)(d) of this section; or

5 2. After the denial of an application for a certificate, upon written  
6 request of appeal by the applicant filed within thirty (30) calendar days  
7 of receipt of the letter advising of the denial;

8 (b) If a certificate holder or applicant believes the hearing is not timely  
9 following a referral for a hearing under paragraph (a) of this subsection,  
10 the certificate holder or applicant may submit a request for an expedited  
11 hearing. The expedited hearing shall be conducted within sixty (60)  
12 calendar days of the request. If the hearing fails to be convened within sixty  
13 (60) days of the request and the subject of the hearing is:

14 1. A referral under subsection (2)(d) of this section, the referral shall be  
15 dismissed with prejudice; and

16 2. An appeal of denial under paragraph (a)2. of this section, the denial  
17 shall be reversed;

18 (c) Upon request, a hearing may be public or private at the discretion of the  
19 certificate holder or applicant; and

20 (d) The hearing shall be conducted before a hearing officer who is a licensed  
21 attorney secured by the board from the Office of the Attorney General  
22 under KRS Chapter 13B. The hearing shall afford the certificate holder or  
23 applicant all the rights secured under KRS Chapter 13B.

24 (4) [(3) — (a)] The superintendent of each local school district shall report in writing to  
25 the Education Professional Standards Board the name, address, phone number,  
26 Social Security number, and position name of any certificate holder employed in  
27 the ~~[certified school employee in the employee's]~~ district whose contract is

1 terminated or not renewed, for cause except failure to meet local standards for  
2 quality of teaching performance prior to the employee gaining tenure; who resigns  
3 from, or otherwise leaves, a position under threat of contract termination, or  
4 nonrenewal, for cause; who is convicted in a criminal prosecution; or who  
5 otherwise may have engaged in any actions or conduct while employed in the  
6 school district that might reasonably be expected to warrant consideration for action  
7 against the certificate under subsection (1) of this section.

8 (a) The duty to report shall exist without regard to any disciplinary action, or lack  
9 thereof, by the superintendent, and the required report shall be submitted  
10 within thirty (30) calendar days of notification of the event giving rise to the  
11 duty to report.

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

19 (c) The Education Professional Standards Board shall provide the superintendent  
20 confirmation of receipt of any report submitted by the superintendent within  
21 seven (7) business days and shall provide the superintendent with notice of:

- 22 1. Whether or not board staff determine that there is sufficient evidence in  
23 the report that a violation may have occurred; and
- 24 2. Any board action taken against the certificate holder who is the subject  
25 of the report.

26 (d) The Education Professional Standards Board may consider reports and  
27 information received from other sources.

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

6 ~~(5)~~~~[(4)]~~ A finding or action by a school superintendent or tribunal does not create a  
7 presumption of a violation or lack of a violation of subsection (1) of this section.

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

19 ~~(6)~~ ~~(a)~~ ~~In accordance with the timeline specified in this section, the Education~~  
20 ~~Professional Standards Board shall schedule and conduct a hearing in~~  
21 ~~accordance with KRS Chapter 13B:~~

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

26 2. ~~After denying an application for a certificate, upon written request filed~~  
27 ~~within thirty (30) calendar days of receipt of the letter advising of the~~



1 denial; or

2 3. ~~After issuing a written admonishment, upon written request for a~~  
3 ~~hearing filed within thirty (30) calendar days of receipt of the written~~  
4 ~~admonishment.~~

5 (b) ~~If after the hearing required under paragraph (a) of this subsection is~~  
6 ~~scheduled and the certificate holder or applicant believes the hearing is not~~  
7 ~~timely, the certificate holder or applicant may submit a request for an~~  
8 ~~expedited hearing, and the hearing shall be conducted within sixty (60)~~  
9 ~~calendar days of the request.~~

10 (c) ~~Upon request, a hearing may be public or private at the discretion of the~~  
11 ~~certified employee or applicant.~~

12 (d) ~~The hearing shall be conducted before a hearing officer secured by the board~~  
13 ~~pursuant to KRS 13B.030 and the board may:~~

14 1. ~~Employ hearing officers;~~

15 2. ~~Contract with another agency for hearing officers;~~

16 3. ~~Contract with private attorneys through personal service contracts; or~~

17 4. ~~Secure a hearing officer from the Attorney General's office.~~

18 (e) ~~The hearing shall afford the certificate holder all the rights secured under KRS~~  
19 ~~Chapter 13B.]~~

20 (6)~~[(7)]~~ 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 (7)~~[(8)]~~ 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 ~~(8)~~~~(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 ~~(9)~~~~(10)~~ The board may reconsider, modify, or reverse its decision on any disciplinary  
7 action.

8 ~~(10)~~~~(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 ~~(11)~~~~(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 ~~(12)~~~~(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 with  
27 KRS Chapter 13B which provides that all final orders of an agency shall be subject

1 to judicial review.

2 ➔Section 2. KRS 160.380 is amended to read as follows:

3 (1) As used in this section:

4 (a) "Administrative finding of child abuse or neglect" means a substantiated  
5 finding of child abuse or neglect issued by the Cabinet for Health and Family  
6 Services that is:

- 7 1. Not appealed through an administrative hearing conducted in  
8 accordance with KRS Chapter 13B;  
9 2. Upheld at an administrative hearing conducted in accordance with KRS  
10 Chapter 13B and not appealed to a Circuit Court; or  
11 3. Upheld by a Circuit Court in an appeal of the results of an  
12 administrative hearing conducted in accordance with KRS Chapter 13B;

13 (b) "Alternative education program" means a program that exists to meet the  
14 needs of students that cannot be addressed in a traditional classroom setting  
15 but through the assignment of students to alternative classrooms, centers, or  
16 campuses that are designed to remediate academic performance, improve  
17 behavior, or provide an enhanced learning experience. Alternative education  
18 programs do not include career or technical centers or departments;

19 (c) "Clear CA/N check" means a letter from the Cabinet for Health and Family  
20 Services indicating that there are no administrative findings of child abuse or  
21 neglect relating to a specific individual;

22 (d) "Relative" means father, mother, brother, sister, husband, wife, son and  
23 daughter; and

24 (e) "Vacancy" means any certified position opening created by the resignation,  
25 dismissal, nonrenewal of contract, transfer, or death of a certified staff  
26 member of a local school district, or a new position created in a local school  
27 district for which certification is required. However, if an employer-employee

1           bargained contract contains procedures for filling certified position openings  
2           created by the resignation, dismissal, nonrenewal of contract, transfer, or  
3           death of a certified staff member, or creation of a new position for which  
4           certification is required, a vacancy shall not exist, unless certified positions  
5           remain open after compliance with those procedures.

6   (2)   Except as provided in KRS 160.346, the school district personnel actions identified  
7       in this section shall be carried out as follows:

8       (a)   All appointments, promotions, and transfers of principals, supervisors,  
9           teachers, and other public school employees shall be made only by the  
10          superintendent of schools, who shall notify the board of the action taken. All  
11          employees of the local district shall have the qualifications prescribed by law  
12          and by the administrative regulations of the Kentucky Board of Education and  
13          of the employing board. Supervisors, principals, teachers, and other  
14          employees may be appointed by the superintendent for any school year at any  
15          time after February 1 preceding the beginning of the school year. No  
16          superintendent of schools shall appoint or transfer himself or herself to  
17          another position within the school district;

18       (b)   When a vacancy occurs in a local school district, the superintendent shall  
19          submit the job posting to the statewide job posting system described in KRS  
20          160.152 fifteen (15) days before the position shall be filled. The local school  
21          district shall post position openings in the local board office for public  
22          viewing;

23       (c)   When a vacancy needs to be filled in less than fifteen (15) days' time to  
24          prevent disruption of necessary instructional or support services of the school  
25          district, the superintendent may seek a waiver from the chief state school  
26          officer outside of the process established in KRS 156.161. If the waiver is  
27          approved, the appointment shall not be made until the person recommended

1 for the position has been approved by the chief state school officer. The chief  
2 state school officer shall respond to a district's request for waiver or for  
3 approval of an appointment within two (2) working days; and

4 (d) When a vacancy occurs in a local district, the superintendent shall conduct a  
5 search to locate minority teachers to be considered for the position. The  
6 superintendent shall, pursuant to administrative regulations of the Kentucky  
7 Board of Education, report annually the district's recruitment process and the  
8 activities used to increase the percentage of minority teachers in the district.

9 (3) Restrictions on employment of relatives shall be as follows:

10 (a) No relative of a superintendent of schools shall be an employee of the school  
11 district. However, this shall not apply to a relative who is a classified or  
12 certified employee of the school district for at least thirty-six (36) months  
13 prior to the superintendent assuming office and who is qualified for the  
14 position the employee holds. A superintendent's spouse who has previously  
15 been employed in a school system may be an employee of the school district.  
16 A superintendent's spouse who is employed under this provision shall not hold  
17 a position in which the spouse supervises certified or classified employees. A  
18 superintendent's spouse may supervise teacher aides and student teachers.  
19 However, the superintendent shall not promote a relative who continues  
20 employment under an exception of this subsection;

21 (b) No superintendent shall employ a relative of a school board member of the  
22 district;

23 (c) No principal's relative shall be employed in the principal's school; and

24 (d) A relative that is ineligible for employment under paragraph (a), (b), or (c) of  
25 this subsection may be employed as a substitute for a certified or classified  
26 employee if the relative is not:

27 1. A regular full-time or part-time employee of the district;

- 1           2.   Accruing continuing contract status or any other right to continuous
- 2                   employment;
- 3           3.   Receiving fringe benefits other than those provided other substitutes; or
- 4           4.   Receiving preference in employment or assignment over other
- 5                   substitutes.
- 6   (4)   No superintendent shall assign a certified or classified staff person to an alternative
- 7           education program as part of any disciplinary action taken pursuant to KRS 161.011
- 8           or 161.790 as part of a corrective action plan established pursuant to the local
- 9           district evaluation plan.
- 10   (5)   No superintendent shall employ in any position in the district any person who:
- 11           (a)   Has been convicted of an offense that would classify a person as a violent
- 12                   offender under KRS 439.3401;
- 13           (b)   Has been convicted of a sex crime as defined by KRS 17.500 or a
- 14                   misdemeanor offense under KRS Chapter 510;
- 15           (c)   Is required to register as a sex offender under KRS 17.500 to 17.580; or
- 16           (d)   Has an administrative finding of child abuse or neglect in records maintained
- 17                   by the Cabinet for Health and Family Services.
- 18   (6)   Requirements for background checks shall be as follows:
- 19           (a)   A superintendent shall require the following individuals to submit to a
- 20                   national and state criminal background check by the Department of Kentucky
- 21                   State Police and the Federal Bureau of Investigation and have a clear CA/N
- 22                   check, provided by the individual:
- 23                   1.   Each new certified or classified hire;
- 24                   2.   A nonfaculty coach or nonfaculty assistant as defined under KRS
- 25                       161.185;
- 26                   3.   A student teacher;
- 27                   4.   A school-based decision making council parent member; and

- 1           5. Any adult who is permitted access to school grounds on a regularly  
2           scheduled and continuing basis pursuant to a written agreement for the  
3           purpose of providing services directly to a student or students as part of  
4           a school-sponsored program or activity;
- 5           (b) 1. The requirements of paragraph (a) of this subsection shall not apply to:
- 6               a. Classified and certified individuals employed by the school district  
7               prior to June 27, 2019;
- 8               b. Certified individuals who were employed in another certified  
9               position in a Kentucky school district within six (6) months of the  
10              date of hire and who had previously submitted to a national and  
11              state criminal background check and who have a clear CA/N check  
12              for the previous employment; or
- 13              c. Student teachers who have submitted to and provide a copy of a  
14              national and state criminal background check by the Department  
15              of Kentucky State Police and the Federal Bureau of Investigation  
16              through an accredited teacher education institution in which the  
17              student teacher is enrolled and who have a clear CA/N check.
- 18           2. The Education Professional Standards Board may promulgate  
19           administrative regulations to impose additional qualifications to meet  
20           the requirements of Pub. L. No. 92-544;
- 21           (c) A parent member may serve prior to the receipt of the criminal history  
22           background check and CA/N letter required by paragraph (a) of this  
23           subsection but shall be removed from the council on receipt by the school  
24           district of a report documenting a record of abuse or neglect, or a sex crime or  
25           criminal offense against a victim who is a minor as defined in KRS 17.500, or  
26           as a violent offender as defined in KRS 17.165, and no further procedures  
27           shall be required;

1 (d) A superintendent may require a volunteer or a visitor to submit to a national  
2 and state criminal history background check by the Department of Kentucky  
3 State Police and the Federal Bureau of Investigation and have a clear CA/N  
4 check, provided by the individual;~~and~~

5 (e) The superintendent of a school district operating under an alternative  
6 transportation plan approved by the Kentucky Department of Education in  
7 accordance with KRS 156.153(3) shall require the driver of any non-school  
8 bus passenger vehicle authorized to transport students to and from school  
9 pursuant to the alternative transportation plan who does not have a valid  
10 commercial driver's license issued in accordance with KRS Chapter 281A  
11 with an "S" endorsement to:

- 12 1. Submit to a national and state criminal background check by the  
13 Department of Kentucky State Police and the Federal Bureau of  
14 Investigation at least once every three (3) years and a criminal records  
15 check conducted in accordance with KRS 27A.090 in all other years;
- 16 2. Submit to drug testing consistent with the requirements of 49 C.F.R. pt.  
17 40;
- 18 3. Provide a biannual driving history record check performed by the  
19 Transportation Cabinet;
- 20 4. Provide an annual clear CA/N check;
- 21 5. Immediately notify the superintendent of any conviction for a violation  
22 under KRS Chapter 189 for which penalty points are assessed; and
- 23 6. Immediately notify the superintendent of any citation or arrest for a  
24 violation of any provision of KRS Chapter 189A. The superintendent  
25 shall inform the Kentucky Department of Education of the notification;

26 and

27 (f) For an applicant for a certified position:



- 1           1. A superintendent may contact each school district that employs or  
2           previously employed the applicant and the Education Professional  
3           Standards Board to request the applicant's personnel file or official  
4           certification file prior to extending an offer of employment;
  - 5           2. Upon request, the Education Professional Standards Board shall  
6           provide the superintendent with the applicant's official certification  
7           file, including any written admonishment or response under Section 1  
8           of this Act;
  - 9           3. Upon request, a school district shall provide the superintendent with  
10          the applicant's personnel file, including any records the school district  
11          received from the Education Professional Standards Board  
12          concerning the applicant;
  - 13          4. If the applicant is employed by the superintendent, copies of records  
14          received under this paragraph shall be included in the personnel  
15          record of the school district unless the records would be duplicative;  
16          and
  - 17          5. A school district, the Education Professional Standards Board, and  
18          the employees of the district or board making a disclosure pursuant to  
19          a superintendent's request under this paragraph shall be immune  
20          from any civil or criminal liability that might otherwise be incurred or  
21          imposed as a result of making the disclosure.
- 22       (7) (a) If a certified or classified position remains unfilled after July 31 or if a  
23       vacancy occurs during a school term, a superintendent may employ an  
24       individual, who will have supervisory or disciplinary authority over minors,  
25       on probationary status pending receipt of the criminal history background  
26       check and a clear CA/N check, provided by the individual. Application for the  
27       criminal record and a request for a clear CA/N check of a probationary

1 employee shall be made no later than the date probationary employment  
2 begins.

3 (b) Employment shall be contingent on the receipt of the criminal history  
4 background check documenting that the probationary employee has no record  
5 of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt  
6 of a letter, provided by the individual, from the Cabinet for Health and Family  
7 Services stating the employee is clear to hire based on no administrative  
8 findings of child abuse or neglect found through a background check of child  
9 abuse and neglect records maintained by the Cabinet for Health and Family  
10 Services.

11 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,  
12 probationary employment under this section shall terminate on receipt by the  
13 school district of a criminal history background check documenting a record  
14 of a sex crime or as a violent offender as defined in KRS 17.165 and no  
15 further procedures shall be required.

16 (8) The provisions of KRS 161.790 shall apply to terminate employment of a certified  
17 employee on the basis of a criminal record other than a record of a sex crime or as a  
18 violent offender as defined in KRS 17.165, or on the basis of a CA/N check  
19 showing an administrative finding of child abuse or neglect.

20 (9) (a) All fingerprints requested under this section shall be on an applicant  
21 fingerprint card provided by the Department of Kentucky State Police. The  
22 fingerprint cards shall be forwarded to the Federal Bureau of Investigation  
23 from the Department of Kentucky State Police after a state criminal  
24 background check is conducted. The results of the state and federal criminal  
25 background check shall be sent to the hiring superintendent. Any fee charged  
26 by the Department of Kentucky State Police, the Federal Bureau of  
27 Investigation, and the Cabinet for Health and Family Services shall be an

1 amount no greater than the actual cost of processing the request and  
2 conducting the search.

3 (b) Each application form, provided by the employer to an applicant for a  
4 certified or classified position, shall conspicuously state the following: "FOR  
5 THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL  
6 AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND A  
7 LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET  
8 FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT  
9 HAS NO ADMINISTRATIVE FINDINGS OF CHILD ABUSE OR  
10 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD  
11 ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET  
12 FOR HEALTH AND FAMILY SERVICES."

13 (c) Each application form for a district position shall require the applicant to:  
14 1. Identify the states in which he or she has maintained residency,  
15 including the dates of residency; and  
16 2. Provide picture identification.

17 (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,  
18 when an employee of the school district is charged with any offense which is  
19 classified as a felony, the superintendent may transfer the employee to a second  
20 position until such time as the employee is found not guilty, the charges are  
21 dismissed, the employee is terminated, or the superintendent determines that further  
22 personnel action is not required. The employee shall continue to be paid at the same  
23 rate of pay he or she received prior to the transfer. If an employee is charged with  
24 an offense outside of the Commonwealth, this provision may also be applied if the  
25 charge would have been treated as a felony if committed within the  
26 Commonwealth. Transfers shall be made to prevent disruption of the educational  
27 process and district operations and in the interest of students and staff and shall not

- 1           be construed as evidence of misconduct.
- 2   (11) Notwithstanding any law to the contrary, each certified and classified employee of
- 3           the school district shall notify the superintendent if he or she has been found by the
- 4           Cabinet for Health and Family Services to have abused or neglected a child, and if
- 5           he or she has waived the right to appeal a substantiated finding of child abuse or
- 6           neglect or if the substantiated incident was upheld upon appeal. Any failure to
- 7           report this finding shall result in the certified or classified employee being subject
- 8           to dismissal or termination.
- 9   (12) The form for requesting a CA/N check shall be made available on the Cabinet for
- 10          Health and Family Services website.