

1 AN ACT relating to the Kentucky Board of Education.

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

3 ➔Section 1. KRS 156.029 is amended to read as follows:

- 4 (1) There is hereby established a Kentucky Board of Education, which shall consist of
5 eleven (11) **voting** members appointed by the Governor and confirmed by the
6 Senate~~[and the House of Representatives]~~ of the General Assembly, with the
7 president of the Council on Postsecondary Education serving as an ex officio
8 nonvoting member, **an active public elementary or secondary school teacher**
9 **appointed by the Governor serving as a nonvoting member, and a public high**
10 **school student appointed by the Governor serving as a nonvoting member. The**
11 **teacher shall serve for a two (2) year term and the student shall serve for a one**
12 **(1) year term.** Seven (7) **voting** members shall represent each of the Supreme Court
13 districts as established by KRS 21A.010, and four (4) **voting** members shall
14 represent the state at large. Each of the **voting**~~[appointed]~~ members shall serve for a
15 four (4) year term, except the initial appointments shall be as follows: the seven (7)
16 members representing Supreme Court districts shall serve a term which shall expire
17 on April 14, 1994; and the four (4) at-large members shall serve a term which shall
18 expire on April 14, 1992. Subsequent appointments shall be submitted to the
19 Senate~~[and to the House of Representatives]~~ for confirmation in accordance with
20 KRS 11.160.~~[Each appointment by the Governor shall be agreed upon by both~~
21 ~~chambers in order for the person to be confirmed. Each confirmed appointee shall~~
22 ~~take office on April 15.]~~
- 23 (2) Appointments **of the voting members** shall be made without reference to
24 occupation~~[, political affiliation, or similar consideration]~~. No **voting** member at the
25 time of his appointment or during the term of his service shall be engaged as a
26 professional educator. **Beginning with voting members appointed on or after the**
27 **effective date of this Act, appointments shall reflect equal representation of the**

1 two (2) sexes, inasmuch as possible; reflect no less than proportional
 2 representation of the two (2) leading political parties of the Commonwealth based
 3 on the state's voter registration and the political affiliation of each appointee as
 4 of December 31 of the year preceding the date of his or her appointment; and
 5 reflect the minority racial composition of the Commonwealth based on the total
 6 minority racial population using the most recent census or estimate data from the
 7 United States Census Bureau. If the determination of proportional minority
 8 representation does not result in a whole number of minority members, it shall be
 9 rounded up to the next whole number. A particular political affiliation shall not
 10 be a prerequisite to appointment to the board generally; however, if any person is
 11 appointed to the board that does not represent either of the two (2) leading
 12 political parties of the Commonwealth, the proportional representation by
 13 political affiliation requirement shall be determined and satisfied based on the
 14 total number of members on the board less any members not affiliated with either
 15 of the two (2) leading political parties. Pursuant to KRS 63.080, a member shall
 16 not be removed except for cause or, beginning with voting members appointed on
 17 or after the effective date of this Act, in accordance with subsection (3) of Section
 18 3 of this Act. Notwithstanding KRS 12.028, the board shall not be subject to
 19 reorganization by the Governor.

- 20 (3) A vacancy in the membership of the board shall be filled by the Governor for the
 21 unexpired term with the consent of the Senate ~~and the House of Representatives~~.
 22 In the event that the General Assembly is not in session at the time of the
 23 appointment, the consent of the Senate ~~and the House of Representatives~~ shall be
 24 obtained during the time the General Assembly next convenes.
- 25 (4) At the first regular meeting of the board in each fiscal year, a chairperson shall be
 26 elected from its voting membership.
- 27 (5) The members shall be reimbursed for actual and necessary expenses incurred in the

1 performance of their duties.

2 (6) The commissioner of education shall serve as the executive secretary to the board.

3 (7) The primary function of the board shall be to develop and adopt policies and
4 administrative regulations, with the advice of the Local Superintendents Advisory
5 Council, by which the Department of Education shall be governed in planning,
6 coordinating, administering, supervising, operating, and evaluating the educational
7 programs, services, and activities within the Department of Education which are
8 within the jurisdiction of the board.

9 ➔Section 2. KRS 156.040 is amended to read as follows:

10 (1) As used in this section, "relative" means father, mother, brother, sister, husband,
11 wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

12 (2) A member of the Kentucky Board of Education shall:

13 (a) Be at least thirty (30) years of age;

14 (b) Have at least an associate degree or its equivalent;

15 (c) Have been a resident of Kentucky for at least three (3) years preceding the
16 member's appointment;

17 (d) Not hold a state office requiring the constitutional oath;

18 (e) Not be a member of the General Assembly;

19 (f) Not hold or discharge the duties of any civil or political office, deputyship, or
20 agency under the city or county of his or her residence;

21 (g) Not be directly or indirectly interested in the sale to the Kentucky Board of
22 Education or the Department of Education of books, stationery, or any other
23 property, materials, supplies, equipment, or services for which board or
24 department funds are expended;

25 (h) Not have a relative as defined in subsection (1) of this section who is
26 employed by the Department of Education;

27 (i) Not have been removed from the board for cause; and

1 (j) Not be engaged as an elementary or secondary education professional
2 educator.

3 ~~[(3) Appointments to the board shall be made without reference to occupation, political
4 affiliation, or similar considerations.]~~

5 ➔Section 3. KRS 63.080 is amended to read as follows:

6 (1) Except as provided in subsection (2) of this section and otherwise provided by law,
7 any person appointed by the Governor, either with or without the advice and
8 consent of the Senate, may be removed from office by the Governor for any cause
9 the Governor deems sufficient, by an order of the Governor entered in the executive
10 journal removing the officer.

11 (2) (a) Except as provided in subsections (3) and (4) of this section, members of *the*
12 *Kentucky Board of Education*; the board of trustees of the University of
13 Kentucky;~~;~~ the board of trustees of the University of Louisville; *and*~~;~~
14 ~~members of~~ the board of regents respectively of Eastern Kentucky University,
15 Western Kentucky University, Morehead State University, Kentucky State
16 University, Northern Kentucky University, Murray State University, and the
17 Kentucky Community and Technical College System shall not be removed
18 except for cause.

19 (b) Members of the ~~Kentucky Board of Education and the~~ Council on
20 Postsecondary Education shall not be removed except for cause.

21 (c) A member of a board of trustees or board of regents specified in paragraph (a)
22 of this subsection may be removed for cause as follows:

23 1. The Governor or the board of trustees or board of regents, as applicable,
24 shall notify, in writing, the member and the Council on Postsecondary
25 Education that the member should be removed for cause and shall
26 specify the conduct warranting removal;

27 2. The member shall have seven (7) days to voluntarily resign or to provide

- 1 evidence to the Council on Postsecondary Education that the member's
2 conduct does not warrant removal;
- 3 3. Within thirty (30) days after receipt of notice from the Governor or the
4 board, the Council on Postsecondary Education shall review the written
5 notice, investigate the member and the conduct alleged to support
6 removal, and make a nonbinding recommendation, in writing, to the
7 Governor as to whether the member should be removed, a copy of which
8 shall also be provided to the Legislative Research Commission;
- 9 4. The Governor shall then make a determination, in writing, whether the
10 member should be removed and shall notify the member, the applicable
11 board, the Council on Postsecondary Education, and the Legislative
12 Research Commission of the determination; and
- 13 5. If the Governor's determination is to remove the member, the Governor
14 shall remove the member by executive order, and shall replace the
15 member with a new appointment according to the applicable statutes for
16 the board of trustees or board of regents.
- 17 (d) For the purposes of this subsection, a member may be removed for cause for
18 conduct including but not limited to malfeasance, misfeasance, incompetence,
19 or gross neglect of duty.
- 20 (3) For a board specified in subsection (2)(a) of this section that is required by law to
21 have proportional representation in its membership based on residence, political
22 affiliation, gender, minority racial composition, or professional qualifications, the
23 Governor or other appointing authority may remove any member of the board and
24 replace him or her with another individual in order to bring the membership into
25 compliance with the statutory proportional representation requirement for the board,
26 provided that the Governor or other appointing authority shall:
- 27 (a) Only exercise the removal authority granted in this subsection if appointment

- 1 at the end of the next expiring term of a member, or at the end of the next
2 expiring term of members if two (2) or more members' terms expire at the
3 same time, cannot cure the deficiency in the proportional representation
4 requirement;
- 5 (b) Remove the fewest number of members necessary to bring the membership
6 into compliance with the proportional representation requirement for the
7 board;
- 8 (c) Identify the order in which the members were appointed to their current terms
9 on the board and, beginning with the most recently appointed member who
10 may be removed and replaced to bring the membership into compliance with
11 the proportional representation requirement, remove the member or members
12 according to the length of their tenure on the board, without taking into
13 account any prior term of service on the board by the member;
- 14 (d) Provide any member proposed to be removed with the following:
- 15 1. Written notice, at least seven (7) days prior to the member's removal
16 from the board, stating the statutory proportional representation
17 requirement that the member does not satisfy; and
- 18 2. An opportunity during the seven (7) day notice period for the member to
19 voluntarily resign or to provide evidence to the Governor or other
20 appointing authority that the member does satisfy the proportional
21 representation requirement or that another member on the board who
22 also does not satisfy the requirement has a shorter tenure than the
23 member proposed to be removed;
- 24 (e) Replace any removed member with only those individuals who will bring the
25 board into compliance with the proportional representation requirement; and
- 26 (f) Appoint any new member in the same manner as provided by law for the
27 member being removed and to fill the remainder of the removed member's

1 unexpired term.

2 (4) For a board of trustees or board of regents specified in subsection (2)(a) of this
3 section, the Governor may remove for cause all appointed members of the board
4 and replace the entire appointed membership as follows:

5 (a) The Governor shall notify, in writing, the board and the Council on
6 Postsecondary Education that the entire appointed membership of the board
7 should be removed for cause and shall specify the conduct warranting
8 removal;

9 (b) The board or its members shall have seven (7) days to voluntarily resign or to
10 provide evidence to the Council on Postsecondary Education that the conduct
11 of the board or of individual members does not warrant removal;

12 (c) Within thirty (30) days after receipt of notice from the Governor, the Council
13 on Postsecondary Education shall review the written notice, investigate the
14 board and the conduct alleged to support removal, and make a nonbinding
15 recommendation, in writing, to the Governor as to whether the appointed
16 board membership should be removed, a copy of which shall also be provided
17 to the Legislative Research Commission;

18 (d) The Governor shall then make a determination, in writing, whether the entire
19 appointed board membership should be removed and shall notify the
20 members, the Council on Postsecondary Education, and the Legislative
21 Research Commission of the determination; and

22 (e) If the Governor's determination is to remove the entire appointed membership
23 of the board, the Governor shall remove the members by executive order, and
24 shall replace the members with new appointments according to the applicable
25 statutes for the board of trustees or board or regents.

26 For the purposes of this subsection, the entire appointed membership of a board of
27 trustees or board of regents may be removed for cause if the board is no longer

1 functioning according to its statutory mandate as specified in the enabling statutes
2 applicable to the board, or if the board membership's conduct as a whole constitutes
3 malfeasance, misfeasance, incompetence, or gross neglect of duty, such that the
4 conduct cannot be attributed to any single member or members.