

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 ***and the secretary of the***  
8 ***Education and Workforce Development Cabinet*** serving as~~[ an]~~ ex officio  
9 nonvoting ***members, and an active public elementary or secondary school teacher***  
10 ***and a public high school student appointed by the board as described in***  
11 ***subsection (3) of this section serving as nonvoting members***~~[member]~~. Seven (7)  
12 ***voting*** members shall represent each of the Supreme Court districts as established  
13 by KRS 21A.010, and four (4) ***voting*** members shall represent the state at large.  
14 Each of the ***voting***~~[appointed]~~ members shall serve for a four (4) year term, except  
15 the initial appointments shall be as follows: the seven (7) members representing  
16 Supreme Court districts shall serve a term which shall expire on April 14, 1994; and  
17 the four (4) at-large members shall serve a term which shall expire on April 14,  
18 1992. Subsequent appointments shall be submitted to the Senate~~[ and to the House~~  
19 ~~of Representatives]~~ for confirmation in accordance with KRS 11.160.~~[Each~~  
20 ~~appointment by the Governor shall be agreed upon by both chambers in order for~~  
21 ~~the person to be confirmed. Each confirmed appointee shall take office on April~~  
22 ~~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 to the group of members representing***

1 Supreme Court districts and to the group of at-large members, respectively, shall  
2 reflect equal representation of the two (2) sexes, inasmuch as possible; reflect no  
3 less than proportional representation of the two (2) leading political parties of the  
4 Commonwealth based on the state's voter registration and the political affiliation  
5 of each appointee as of December 31 of the year preceding the date of his or her  
6 appointment; and reflect the minority racial composition of the Commonwealth  
7 based on the total minority racial population using the most recent census or  
8 estimate data from the United States Census Bureau. If the determination of  
9 proportional minority representation does not result in a whole number of  
10 minority members, it shall be rounded up to the next whole number. A particular  
11 political affiliation shall not be a prerequisite to appointment to the board  
12 generally; however, if any person is appointed to the board that does not  
13 represent either of the two (2) leading political parties of the Commonwealth, the  
14 proportional representation by political affiliation requirement shall be  
15 determined and satisfied based on the total number of members on the board less  
16 any members not affiliated with either of the two (2) leading political parties.  
17 Pursuant to KRS 63.080, a member shall not be removed except for cause or,  
18 beginning with voting members appointed on or after the effective date of this  
19 Act, in accordance with subsection (3) of Section 3 of this Act. Notwithstanding  
20 KRS 12.028, the board shall not be subject to reorganization by the Governor.  
21 (3) The nonvoting teacher and student members shall be selected by the board from  
22 the state's six (6) congressional districts on a rotating basis from different  
23 districts. The public high school student shall be classified as a junior at the time  
24 of appointment. The teacher and student members shall serve for a one (1) year  
25 term, except the initial appointments shall serve a term which shall expire on  
26 April 14, 2022. The board shall promulgate an administrative regulation  
27 establishing the process for selecting the nonvoting teacher and student members.

1 **(4)** A vacancy in the voting membership of the board shall be filled by the Governor for  
2 the unexpired term with the consent of the Senate ~~and the House of~~  
3 ~~Representatives~~. In the event that the General Assembly is not in session at the  
4 time of the appointment, the consent of the Senate ~~and the House of~~  
5 ~~Representatives~~ shall be obtained during the time the General Assembly next  
6 convenes.

7 ~~(5)~~~~(4)~~ At the first regular meeting of the board in each fiscal year, a chairperson shall  
8 be elected from its voting membership.

9 ~~(6)~~~~(5)~~ The members shall be reimbursed for actual and necessary expenses incurred  
10 in the performance of their duties.

11 ~~(7)~~~~(6)~~ The commissioner of education shall serve as the executive secretary to the  
12 board.

13 ~~(8)~~~~(7)~~ The primary function of the board shall be to develop and adopt policies and  
14 administrative regulations, with the advice of the Local Superintendents Advisory  
15 Council, by which the Department of Education shall be governed in planning,  
16 coordinating, administering, supervising, operating, and evaluating the educational  
17 programs, services, and activities within the Department of Education which are  
18 within the jurisdiction of the board.

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

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

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

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

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

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

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

- 1 (e) Not be a member of the General Assembly;
- 2 (f) Not hold or discharge the duties of any civil or political office, deputyship, or  
3 agency under the city or county of his or her residence;
- 4 (g) Not be directly or indirectly interested in the sale to the Kentucky Board of  
5 Education or the Department of Education of books, stationery, or any other  
6 property, materials, supplies, equipment, or services for which board or  
7 department funds are expended;
- 8 (h) Not have a relative as defined in subsection (1) of this section who is  
9 employed by the Department of Education;
- 10 (i) Not have been removed from the board for cause; and
- 11 (j) Not be engaged as an elementary or secondary education professional  
12 educator.

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

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

- 16 (1) Except as provided in subsection (2) of this section and otherwise provided by law,  
17 any person appointed by the Governor, either with or without the advice and  
18 consent of the Senate, may be removed from office by the Governor for any cause  
19 the Governor deems sufficient, by an order of the Governor entered in the executive  
20 journal removing the officer.
- 21 (2) (a) Except as provided in subsections (3) and (4) of this section, members of ***the***  
22 ***Kentucky Board of Education;*** the board of trustees of the University of  
23 Kentucky;~~;~~ the board of trustees of the University of Louisville; ***and;***  
24 ~~members of~~ the board of regents respectively of Eastern Kentucky University,  
25 Western Kentucky University, Morehead State University, Kentucky State  
26 University, Northern Kentucky University, Murray State University, and the  
27 Kentucky Community and Technical College System shall not be removed

1           except for cause.

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

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

- 6           1. The Governor or the board of trustees or board of regents, as applicable,  
7           shall notify, in writing, the member and the Council on Postsecondary  
8           Education that the member should be removed for cause and shall  
9           specify the conduct warranting removal;
- 10          2. The member shall have seven (7) days to voluntarily resign or to provide  
11          evidence to the Council on Postsecondary Education that the member's  
12          conduct does not warrant removal;
- 13          3. Within thirty (30) days after receipt of notice from the Governor or the  
14          board, the Council on Postsecondary Education shall review the written  
15          notice, investigate the member and the conduct alleged to support  
16          removal, and make a nonbinding recommendation, in writing, to the  
17          Governor as to whether the member should be removed, a copy of which  
18          shall also be provided to the Legislative Research Commission;
- 19          4. The Governor shall then make a determination, in writing, whether the  
20          member should be removed and shall notify the member, the applicable  
21          board, the Council on Postsecondary Education, and the Legislative  
22          Research Commission of the determination; and
- 23          5. If the Governor's determination is to remove the member, the Governor  
24          shall remove the member by executive order, and shall replace the  
25          member with a new appointment according to the applicable statutes for  
26          the board of trustees or board of regents.

27          (d) For the purposes of this subsection, a member may be removed for cause for

1           conduct including but not limited to malfeasance, misfeasance, incompetence,  
2           or gross neglect of duty.

3   (3) For a board specified in subsection (2)(a) of this section that is required by law to  
4   have proportional representation in its membership based on residence, political  
5   affiliation, gender, minority racial composition, or professional qualifications, the  
6   Governor or other appointing authority may remove any member of the board and  
7   replace him or her with another individual in order to bring the membership into  
8   compliance with the statutory proportional representation requirement for the board,  
9   provided that the Governor or other appointing authority shall:

10   (a) Only exercise the removal authority granted in this subsection if appointment  
11       at the end of the next expiring term of a member, or at the end of the next  
12       expiring term of members if two (2) or more members' terms expire at the  
13       same time, cannot cure the deficiency in the proportional representation  
14       requirement;

15   (b) Remove the fewest number of members necessary to bring the membership  
16       into compliance with the proportional representation requirement for the  
17       board;

18   (c) Identify the order in which the members were appointed to their current terms  
19       on the board and, beginning with the most recently appointed member who  
20       may be removed and replaced to bring the membership into compliance with  
21       the proportional representation requirement, remove the member or members  
22       according to the length of their tenure on the board, without taking into  
23       account any prior term of service on the board by the member;

24   (d) Provide any member proposed to be removed with the following:

25       1. Written notice, at least seven (7) days prior to the member's removal  
26       from the board, stating the statutory proportional representation  
27       requirement that the member does not satisfy; and

- 1           2. An opportunity during the seven (7) day notice period for the member to  
2 voluntarily resign or to provide evidence to the Governor or other  
3 appointing authority that the member does satisfy the proportional  
4 representation requirement or that another member on the board who  
5 also does not satisfy the requirement has a shorter tenure than the  
6 member proposed to be removed;
- 7           (e) Replace any removed member with only those individuals who will bring the  
8 board into compliance with the proportional representation requirement; and
- 9           (f) Appoint any new member in the same manner as provided by law for the  
10 member being removed and to fill the remainder of the removed member's  
11 unexpired term.
- 12       (4) For a board of trustees or board of regents specified in subsection (2)(a) of this  
13 section, the Governor may remove for cause all appointed members of the board  
14 and replace the entire appointed membership as follows:
- 15           (a) The Governor shall notify, in writing, the board and the Council on  
16 Postsecondary Education that the entire appointed membership of the board  
17 should be removed for cause and shall specify the conduct warranting  
18 removal;
- 19           (b) The board or its members shall have seven (7) days to voluntarily resign or to  
20 provide evidence to the Council on Postsecondary Education that the conduct  
21 of the board or of individual members does not warrant removal;
- 22           (c) Within thirty (30) days after receipt of notice from the Governor, the Council  
23 on Postsecondary Education shall review the written notice, investigate the  
24 board and the conduct alleged to support removal, and make a nonbinding  
25 recommendation, in writing, to the Governor as to whether the appointed  
26 board membership should be removed, a copy of which shall also be provided  
27 to the Legislative Research Commission;

- 1 (d) The Governor shall then make a determination, in writing, whether the entire  
2 appointed board membership should be removed and shall notify the  
3 members, the Council on Postsecondary Education, and the Legislative  
4 Research Commission of the determination; and
- 5 (e) If the Governor's determination is to remove the entire appointed membership  
6 of the board, the Governor shall remove the members by executive order, and  
7 shall replace the members with new appointments according to the applicable  
8 statutes for the board of trustees or board or regents.

9 For the purposes of this subsection, the entire appointed membership of a board of  
10 trustees or board of regents may be removed for cause if the board is no longer  
11 functioning according to its statutory mandate as specified in the enabling statutes  
12 applicable to the board, or if the board membership's conduct as a whole constitutes  
13 malfeasance, misfeasance, incompetence, or gross neglect of duty, such that the  
14 conduct cannot be attributed to any single member or members.

15 ➔Section 4. The General Assembly confirms Executive Order 2020-610, dated  
16 July 21, 2020, relating to the reorganization of the Kentucky Board of Education, to the  
17 extent not otherwise confirmed or superseded by this Act.