

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 promulgate an administrative**
25 **regulation detailing the process and procedures for receiving a complaint against**
26 **a certificate holder for a violation under subsection (1) of this section and the**
27 **processes and procedures for investigating an alleged violation. The process and**

1 procedures shall include:

2 (a) Within thirty (30) days of the receipt of a complaint, board staff shall
3 conduct an initial review to determine whether there is sufficient credible
4 evidence that a violation may have occurred and shall provide notice of the
5 initial determination to the certificate holder within three (3) days;

6 (b) Upon receipt of the notice, the certificate holder shall have thirty (30) days
7 to respond to any complaint that was determined to contain sufficient
8 credible evidence that a violation may have occurred;

9 (c) Upon receipt of the certificate holder's response or the end of the thirty (30)
10 day response period established in paragraph (b) of this subsection, board
11 staff shall have five (5) days to propose an in-person or virtual conference
12 with the certificate holder to share information and to determine if an
13 agreed resolution can be recommended to the board concerning the alleged
14 violation. The conference shall be scheduled within thirty (30) days of the
15 end of the response period. The certificate holder may decline the
16 conference. If the conference does not occur due to the certificate holder's
17 failure to respond within the thirty (30) days, the required conference shall
18 be considered waived. The certificate holder may have an attorney present
19 at the conference;

20 (d) Upon the end of the conference, or the thirty (30) day response period if the
21 conference is declined or waived, the board shall have thirty (30) days to
22 take action on the complaint. If the board fails to take action on the
23 complaint within the thirty (30) days, then the complaint shall be considered
24 dismissed. The board shall consider the entirety of the complaint with any
25 associated response or recommended agreed resolution to determine:

26 1. Dismissal, training, admonishment, further investigation, or initiation
27 of a hearing;

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2. Approval of the recommended agreed resolution; or

3. A deferral if:

a. The content of the complaint is subject to ongoing criminal investigation or proceedings; or

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

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

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

(b) The district superintendent shall inform the Education Professional Standards Board in writing of the full facts and circumstances leading to the contract termination or nonrenewal, resignation, or other absence, conviction, or otherwise reported actions or conduct of the certified employee, that may warrant action against the certificate under subsection (1) of this section, and

1 shall forward copies of all relevant documents and records in his possession.

2 (c) *The Education Professional Standards Board shall provide the*
3 *superintendent confirmation of receipt of any report submitted by the*
4 *superintendent and shall provide the superintendent with notice of:*

5 *1. Whether or not board staff determine that there is sufficient credible*
6 *evidence in the report that a violation may have occurred; and*

7 *2. Any board action taken against the certificate holder who is the*
8 *subject of the report.*

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

11 (e)~~(d)~~ The certified school employee shall be given a copy of any report
12 provided to the Education Professional Standards Board by the district
13 superintendent or other sources. The employee shall have the right to file a
14 written rebuttal to the report which shall be placed in the official file with the
15 report.

16 ~~(4)~~~~(3)~~ A finding or action by a school superintendent or tribunal does not create a
17 presumption of a violation or lack of a violation of subsection (1) of this section.

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

- 1 ~~(6)~~~~(5)~~ (a) The Education Professional Standards Board shall schedule and conduct
2 a hearing in accordance with KRS Chapter 13B:
- 3 1. Before revoking, suspending, refusing to renew, imposing probationary
4 or supervisory conditions upon, issuing a written reprimand, or any
5 combination of these actions regarding any certificate;
 - 6 2. After denying an application for a certificate, upon written request filed
7 within thirty (30) days of receipt of the letter advising of the denial; or
 - 8 3. After issuing a written admonishment, upon written request for a
9 hearing filed within thirty (30) days of receipt of the written
10 admonishment.
- 11 (b) Upon request, a hearing may be public or private at the discretion of the
12 certified employee or applicant.
- 13 (c) The hearing shall be conducted before ~~the full board, a panel of three (3)~~
14 ~~members of the board, or a person~~ selected~~appointed~~ as the hearing officer
15 by the board pursuant to KRS 13B.030(1).
- 16 **(d) The hearing shall afford the certificate holder all the rights secured under**
17 **KRS Chapter 13B.**
- 18 ~~(7)~~~~(6)~~ The Education Professional Standards Board or its chair may take emergency
19 action pursuant to KRS 13B.125. Emergency action shall not affect a certificate
20 holder's contract or tenure rights in the school district.
- 21 ~~(8)~~~~(7)~~ If the Education Professional Standards Board substantiates that sexual
22 contact occurred between a certified employee and a student or minor, the
23 employee's certificate may be revoked or suspended with mandatory treatment of
24 the employee as prescribed by the Education Professional Standards Board. The
25 Education Professional Standards Board may require the employee to pay a
26 specified amount for mental health services for the student or minor which are
27 needed as a result of the sexual contact.

1 ~~(9)~~⁽⁸⁾ At any time during the investigative or hearing processes, the board may enter
2 into an agreed order or accept an assurance of voluntary compliance with the
3 certificate holder.

4 ~~(10)~~⁽⁹⁾ The board may reconsider, modify, or reverse its decision on any disciplinary
5 action.

6 ~~(11)~~⁽¹⁰⁾ Suspension of a certificate shall be for a specified period of time, not to
7 exceed two (2) years.

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

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

12 ~~(12)~~⁽¹¹⁾ Revocation of a certificate is a permanent forfeiture. The board shall establish
13 the minimum period of time before an applicant can apply for a new certificate.

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

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

22 ~~(13)~~⁽¹²⁾ An appeal from any final order of the Education Professional Standards Board
23 shall be filed in Franklin Circuit Court **or the Circuit Court of the county in which**
24 **the certificate holder resides** in accordance with KRS Chapter 13B **which provides**
25 **that all final orders of an agency shall be subject to judicial review.**

26 ➔Section 2. Section 1 of this Act shall apply retroactively to any complaints
27 pending before the Education Professional Standards Board on the effective date of this

1 Act.

2 ➔Section 3. Whereas the protection of the due process rights of teachers is critical
3 to the retainment of educators in the Commonwealth, an emergency is declared to exist,
4 and this Act takes effect upon its passage and approval by the Governor or upon its
5 otherwise becoming a law.