

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, an active public elementary or secondary school teacher***  
10 ***appointed by the Governor serving as a nonvoting member, and a public high***  
11 ***school student appointed by the Governor serving as a nonvoting*** member. ***The***  
12 ***teacher shall serve for a two (2) year term and the student shall serve for a one***  
13 ***(1) year term, except the initial appointments shall serve a term which shall***  
14 ***expire on April 14, 2022. The public high school student shall be classified as a***  
15 ***junior at the time of appointment by the Governor.*** Seven (7) ***voting*** members  
16 shall represent each of the Supreme Court districts as established by KRS 21A.010,  
17 and four (4) ***voting*** members shall represent the state at large. Each of the  
18 ***voting***~~[appointed]~~ members shall serve for a four (4) year term, except the initial  
19 appointments shall be as follows: the seven (7) members representing Supreme  
20 Court districts shall serve a term which shall expire on April 14, 1994; and the four  
21 (4) at-large members shall serve a term which shall expire on April 14, 1992.  
22 Subsequent appointments shall be submitted to the Senate~~[ and to the House of~~  
23 ~~Representatives]~~ for confirmation in accordance with KRS 11.160.~~[ Each~~  
24 ~~appointment by the Governor shall be agreed upon by both chambers in order for~~  
25 ~~the person to be confirmed. Each confirmed appointee shall take office on April~~  
26 ~~15.]~~
- 27 (2) Appointments ***of the voting members*** shall be made without reference to

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

- 25 (3) A vacancy in the membership of the board shall be filled by the Governor for the  
26 unexpired term with the consent of the Senate ~~and the House of Representatives~~.  
27 In the event that the General Assembly is not in session at the time of the

1 appointment, the consent of the Senate~~[and the House of Representatives]~~ shall be  
2 obtained during the time the General Assembly next convenes.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (g) Not be directly or indirectly interested in the sale to the Kentucky Board of  
27 Education or the Department of Education of books, stationery, or any other

1 property, materials, supplies, equipment, or services for which board or  
2 department funds are expended;

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

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

6 (j) Not be engaged as an elementary or secondary education professional  
7 educator.

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

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

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

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

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

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

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

1 Governor or other appointing authority may remove any member of the board and  
2 replace him or her with another individual in order to bring the membership into  
3 compliance with the statutory proportional representation requirement for the board,  
4 provided that the Governor or other appointing authority shall:

5 (a) Only exercise the removal authority granted in this subsection if appointment  
6 at the end of the next expiring term of a member, or at the end of the next  
7 expiring term of members if two (2) or more members' terms expire at the  
8 same time, cannot cure the deficiency in the proportional representation  
9 requirement;

10 (b) Remove the fewest number of members necessary to bring the membership  
11 into compliance with the proportional representation requirement for the  
12 board;

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

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

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

23 2. An opportunity during the seven (7) day notice period for the member to  
24 voluntarily resign or to provide evidence to the Governor or other  
25 appointing authority that the member does satisfy the proportional  
26 representation requirement or that another member on the board who  
27 also does not satisfy the requirement has a shorter tenure than the

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

1           of the board, the Governor shall remove the members by executive order, and  
2           shall replace the members with new appointments according to the applicable  
3           statutes for the board of trustees or board or regents.

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

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