

1 AN ACT relating to school superintendents.

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

3 ➔Section 1. KRS 160.350 is amended to read as follows:

- 4 (1) After considering the recommendations of a screening committee, as provided in  
5 KRS 160.352, each board of education shall appoint a superintendent of schools  
6 whose term of office shall begin on July 1, following the individual's appointment.  
7 The appointment may be for a term of no more than four (4) years. In the event a  
8 vacancy occurs in the office of superintendent prior to the expiration of the term set  
9 by the board, the term shall expire on the date the vacancy occurs. Therefore, the  
10 board may appoint a superintendent for a new term as provided in this subsection,  
11 which shall begin on the date of the superintendent's appointment, except when the  
12 vacancy occurs after a school board election and before the newly elected members  
13 take office. When a vacancy occurs during this period, the position shall not be  
14 filled until the new members take office, but the board may appoint an acting  
15 superintendent to serve a term not to exceed six (6) months. This appointment may  
16 be renewed once for a period not to exceed three (3) months. If a vacancy occurs, a  
17 local board may also appoint an acting superintendent during the period the  
18 screening committee pursuant to KRS 160.352 conducts its business and prior to  
19 the actual appointment of the new superintendent. No superintendent shall resign  
20 during a term and accept a new term from the same board of education prior to the  
21 expiration date of the present term. In the case of a vacancy in the office for an  
22 unexpired term, the board of education shall make the appointment so that the term  
23 will end on June 30. The board shall set the salary of the superintendent to be paid  
24 in regular installments.
- 25 (2) An individual shall not assume the duties of superintendent in a district until he or  
26 she provides the board of education with a copy of a certificate for school  
27 superintendent issued by the Education Professional Standards Board or its legal

1 predecessor. A superintendent shall hold a valid certificate throughout the period of  
2 employment. A superintendent shall successfully complete the training program and  
3 assessment center process within two (2) years of assuming the duties of  
4 superintendent. A superintendent shall not serve as director or officer of a bank,  
5 trust company, or savings or loan association that has the school district's funds on  
6 deposit. Following appointment, the superintendent shall establish residency in  
7 Kentucky.

8 (3) A superintendent of schools may be removed for cause by a vote *of the majority*~~of~~  
9 ~~four fifths (4/5)]~~ of the membership of a board of education **plus one (1) additional**  
10 **member**~~[and upon approval by the commissioner of education. However, if the~~  
11 ~~dismissal of the superintendent has been recommended by a highly skilled certified~~  
12 ~~educator pursuant to KRS 158.6455 and the action is approved by the commissioner~~  
13 ~~of education, the board shall terminate the superintendent's contract].~~ Written notice  
14 setting out the charges for removal shall be spread on the minutes of the board and  
15 given to the superintendent. **A superintendent may appeal the board of education's**  
16 **decision to the Kentucky Board of Education at the next regularly scheduled**  
17 **meeting of the state board. The state board's decision shall be whether to uphold**  
18 **or overturn the local board's decision**~~[The board shall seek approval by the~~  
19 ~~commissioner of education for removing the superintendent. The commissioner of~~  
20 ~~education shall investigate the accuracy of the charges made, evaluate the~~  
21 ~~superintendent's overall performance during the superintendent's appointment, and~~  
22 ~~consider the educational performance of the students in the district. Within thirty~~  
23 ~~(30) days of notification, the commissioner of education shall either approve or~~  
24 ~~reject the board's request].~~

25 (4) After the completion of a superintendent's first contract or after four (4) years,  
26 whichever comes last, the board of education may, no later than June 30, extend the  
27 contract of the superintendent for one (1) additional year beyond the current term of

1 employment.

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. If the waiver is approved, the appointment shall not be made until the  
27          person recommended for the position has been approved by the chief state

1 school officer. The chief state school officer shall respond to a district's  
2 request for waiver or for approval of an appointment within two (2) working  
3 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 initially employ in any position in the district any person  
11           who is a violent offender or has been convicted of a sex crime as defined by KRS  
12           17.165 which is classified as a felony or persons with an administrative finding of  
13           child abuse or neglect in records maintained by the Cabinet for Health and Family  
14           Services. ***Nor shall*** the superintendent ~~[may] employ[, at his discretion, except at a~~  
15           ~~Kentucky Educational Collaborative for State Agency Children program,]~~ persons  
16           convicted of ***any*** sex ***crime***~~[crimes]~~ classified as a misdemeanor ***under KRS***  
17           ***510.120, 510.130, 510.140, 510.148, or 510.150.***
- 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 Public Law 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; and

- 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.
- 5 (7) (a) If a certified or classified position remains unfilled after July 31 or if a  
6 vacancy occurs during a school term, a superintendent may employ an  
7 individual, who will have supervisory or disciplinary authority over minors,  
8 on probationary status pending receipt of the criminal history background  
9 check and a clear CA/N check, provided by the individual. Application for the  
10 criminal record and a request for a clear CA/N check of a probationary  
11 employee shall be made no later than the date probationary employment  
12 begins.
- 13 (b) Employment shall be contingent on the receipt of the criminal history  
14 background check documenting that the probationary employee has no record  
15 of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt  
16 of a letter, provided by the individual, from the Cabinet for Health and Family  
17 Services stating the employee is clear to hire based on no administrative  
18 findings of child abuse or neglect found through a background check of child  
19 abuse and neglect records maintained by the Cabinet for Health and Family  
20 Services.
- 21 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,  
22 probationary employment under this section shall terminate on receipt by the  
23 school district of a criminal history background check documenting a record  
24 of a sex crime or as a violent offender as defined in KRS 17.165 and no  
25 further procedures shall be required.
- 26 (8) The provisions of KRS 161.790 shall apply to terminate employment of a certified  
27 employee on the basis of a criminal record other than a record of a sex crime or as a



1 violent offender as defined in KRS 17.165, or on the basis of a CA/N check  
2 showing an administrative finding of child abuse or neglect.

3 (9) (a) All fingerprints requested under this section shall be on an applicant  
4 fingerprint card provided by the Department of Kentucky State Police. The  
5 fingerprint cards shall be forwarded to the Federal Bureau of Investigation  
6 from the Department of Kentucky State Police after a state criminal  
7 background check is conducted. The results of the state and federal criminal  
8 background check shall be sent to the hiring superintendent. Any fee charged  
9 by the Department of Kentucky State Police, the Federal Bureau of  
10 Investigation, and the Cabinet for Health and Family Services shall be an  
11 amount no greater than the actual cost of processing the request and  
12 conducting the search.

13 (b) Each application form, provided by the employer to an applicant for a  
14 certified or classified position, shall conspicuously state the following: "FOR  
15 THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL  
16 AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND A  
17 LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET  
18 FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT  
19 HAS NO ADMINISTRATIVE FINDINGS OF CHILD ABUSE OR  
20 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD  
21 ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET  
22 FOR HEALTH AND FAMILY SERVICES."

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

27 (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,

1       when an employee of the school district is charged with any offense which is  
2       classified as a felony, the superintendent may transfer the employee to a second  
3       position until such time as the employee is found not guilty, the charges are  
4       dismissed, the employee is terminated, or the superintendent determines that further  
5       personnel action is not required. The employee shall continue to be paid at the same  
6       rate of pay he or she received prior to the transfer. If an employee is charged with  
7       an offense outside of the Commonwealth, this provision may also be applied if the  
8       charge would have been treated as a felony if committed within the  
9       Commonwealth. Transfers shall be made to prevent disruption of the educational  
10      process and district operations and in the interest of students and staff and shall not  
11      be construed as evidence of misconduct.

12   (11) Notwithstanding any law to the contrary, each certified and classified employee of  
13      the school district shall notify the superintendent if he or she has been found by the  
14      Cabinet for Health and Family Services to have abused or neglected a child, and if  
15      he or she has waived the right to appeal a substantiated finding of child abuse or  
16      neglect or if the substantiated incident was upheld upon appeal. Any failure to  
17      report this finding shall result in the certified or classified employee being subject  
18      to dismissal or termination.

19   (12) The form for requesting a CA/N check shall be made available on the Cabinet for  
20      Health and Family Services website.