

## **10 KEY PERSONNEL STATUTES**

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**PERSONNEL LAW**

**I. KRS 160.291  
MANNER OF PAYMENT OF SALARIES TO SCHOOL EMPLOYEES; PAY FOR  
EXTRA DUTIES OR SERVICES; FRINGE BENEFITS PROGRAM**

- (1) \* \* \*
  - (2) \* \* \*
  - (3) Gross salary payments under subsection (1) of this section need not, but may, include pay for **extra duties or services**. Payment for **extra duties or services** must be paid pursuant to a payment plan adopted by the board of education prior to the beginning of the school year. The board of education may also adopt a plan for providing a program of fringe benefits to its employees.
  - (4) \* \* \*
  - (5) \* \* \*
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- A. **Extra duties or services** - this statute, along with a related administrative regulation constitute the legal authority for local boards to make payments to school employees for services performed outside the normal school day. Examples include payments to coaches for performing coaching duties and administrative stipends or supplements.
- B. The statute requires a written plan for both extra service pay and fringe benefits for employees. The plan(s) need not be a freestanding policy, but could be part of the salary schedule or other employee benefit policies.

**II. KRS 160.380  
SCHOOL EMPLOYEES; RESTRICTIONS ON APPOINTMENT OF RELATIVES,  
VIOLENT OFFENDERS, AND PERSONS CONVICTED OF SEX CRIMES;  
NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECKS ON  
APPLICANTS**

- (1) As used in this section:
  - (a) \* \* \*
  - (b) “Relative” means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law; and
  - (c) \* \* \*

- (2) (a) \* \* \*
  - (b) \* \* \*
  - (c) \* \* \*
  - (d) \* \* \*
  - (e) No **relative of a superintendent** of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection;
  - (f) No superintendent shall employ a **relative of a school board member** of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection; and,
  - (g)
    1. No **principal's relative** shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.
    2. No spouse of a principal shall be employed in the principal's school, except:
      - a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or
      - b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school and one (1) high school.
    3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
    4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.
- (3) No superintendent shall employ in any position in the district any person who is a

**violent offender** or has been **convicted of a sex crime** as defined by KRS 17.165 which is classified as a **felony**. The superintendent may employ, at his discretion, persons convicted of **sex crimes classified as a misdemeanor**.

- (4) (a) A superintendent shall require a national and **state criminal background check** on all new **certified** hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.
  - (b) \* \* \*
  - (c) \* \* \*
  - (d) \* \* \*
- (5) A superintendent shall require a **state criminal background check** on all **classified initial hires**.
  - (a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Department of Kentucky State Police. If an applicant has been a resident of Kentucky twelve (12) months or less, the superintendent may require a national criminal history background check as a condition of employment.
  - (b) \* \* \*
- (6) The superintendent may require a **contractor, volunteer, or visitor** to submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (7) \* \* \*
- (8) \* \* \*
- (9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall apply to a **nonfaculty coach or nonfaculty assistant** and defined under KRS 161.185.
- (10) A **school based decision-making council parent member**, as defined under KRS 160.345, shall submit to a state and national fingerprint-supported criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation. \* \* \*

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

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- A. Relative - this term is defined by the statute, but it is important to note that some people who seem to be relatives are not. For example, an “aunt” is a relative. Thus, a superintendent cannot employ his or her aunt, nor the aunt of a board member. However, “niece” and “nephew” are not defined as relatives. A superintendent could employ the niece or nephew of a board member.
- B. An area covered by the statute that requires care to be exercised by districts is the issue of the permissible employment of persons who have been convicted of misdemeanors, particularly misdemeanor sex crimes. District may want to consider a policy as to the decision-making process to be followed when a potential or current employee is shown to have a misdemeanor criminal record.

III. **KRS 160.180**  
**NEPOTISM FOR BOARD MEMBERS**

- (1) As used in this section, “**relative**” means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.
- (2) No person shall be eligible to membership on a board of education:
  - (a) \* \* \*
  - (b) \* \* \*
  - (c) \* \* \*
  - (d) \* \* \*
  - (e) \* \* \*
  - (f) \* \* \*
  - (g) \* \* \*
  - (h) \* \* \*

- (i) Who has a **relative** as defined in section (1) of this section employed by the school district and is elected after July 13, 1990. However, this shall not apply to a board member holding office on July 13, 1990, whose relative was not initially hired by the district during the tenure of the board member.

(3) \* \* \*

(4) \* \* \*

(5) \* \* \*

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- A. Who is a **relative** for purposes of KRS 160.180?

Aunt by marriage is not a relative, but aunt by blood is a relative for purposes of KRS 160.180. 90 OAG 68.

Stepson and stepdaughter are not relatives for purposes of KRS 160.180. 91 OAG 20.

Half-brother and half-sister are relatives for purposes of KRS 160.180. 91 OAG 206.

IV. **KRS 161.011**

**DEFINITIONS OF “CLASSIFIED EMPLOYEE” AND “SENIORITY”; JOB CLASSIFICATIONS AND MINIMUM QUALIFICATIONS; REQUIREMENT OF WRITTEN CONTRACTS AND WRITTEN PERSONNEL POLICIES; REDUCTION IN FORCE; REGISTRY OF VACANT CLASSIFIED EMPLOYEE POSITIONS; REVIEW OF LOCAL BOARD POLICIES BY DEPARTMENT OF EDUCATION**

- (1) (a) “**Classified employee**” means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and,

- (b) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) \* \* \*

- (5) Local district shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:

- (a) An employee who has **not completed four (4) years of continuous active** service, upon written notice which is provided or mailed to the employee by the superintendent, no later than May 15, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.
- (b) An employee who **has completed four (4) years of continuous active service**, upon written notice which is provided or mailed to the employee by the superintendent, no later than May 15, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (7) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.
- (6) \* \* \*
- (7) Nothing in this section shall prevent a superintendent from terminating a classified employee for **incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds** which are specifically contained in board policy.
- (8) \* \* \*
- (9) Local school board shall develop and provide to all classified employees written policies which shall include but not be limited to:
  - (a) Terms and conditions of employment;
  - (b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and
  - (c) Discipline guidelines and procedures that satisfy **due process requirements**.
- (10) \* \* \*
- (11) \* \* \*

- 
- A. The statute requires only written notice of nonrenewal to employees who have served less than four years, with a follow-up of written reasons, if requested.
  - B. Employees with four years continuous active service may be terminated for any reasons set forth in subsection (7).

- C. **Due Process** - OAG 05-006 provides that minimum standards of due process require reasonable notice of hearing, right to appear and produce evidence, right to call witnesses and conduct cross-examination, right to an attorneys, statement of basis for decision and impartial decision-makers.

V. **KRS 161.120**  
**DISCIPLINARY ACTIONS RELATING TO CERTIFICATES; APPEALS**

- (1) Except as described in KRS 161.795, the **Education Professional Standards Board** may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of those actions regarding any certificate issued under KRS 161.010 to 161.100, or any certificate or license issued under any previous law to superintendents, principals, teachers, substitute teachers, interns, supervisors, directors of pupil personnel, or other administrative, supervisory, or instructional employees for the following reasons:
  - (a) Being convicted of, or entering an “Alford” plea or plea of nolo contendere to, notwithstanding an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of the plea, one (1) of the following:
    - 1. A **felony**;
    - 2. A **misdemeanor** under KRS Chapter 218A, 508, 509, 510, 522, 525, 529, 530 or 531; or
    - 3. A **misdemeanor involving a student or minor**.  
A certified copy of the conviction or plea shall be conclusive evidence of the conviction or plea;
  - (b) Having **sexual contact** as defined in KRS 510.010(7) **with a student or minor**. Conviction in a criminal proceeding shall not be a requirement for disciplinary action.
  - (c) Committing any act that constitutes fraudulent, corrupt, dishonest, or immoral conduct. If the act constitutes a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action;
  - (d) Demonstrating willful or careless disregard for the health, welfare, or safety of other;
  - (e) Physical or mental incapacity that prevents the certificate holder from performing duties with reasonable skill, competence, or safety;
  - (f) **Possessing, using, or being under the influence of alcohol, which impairs the performance of duties**;
  - (g) **Unlawfully possessing or unlawfully using a drug during the performance of duties**;
  - (h) Incompetency or neglect of duty;
  - (i) Making, or causing to be made, any false or misleading statement or

concealing a material fact in obtaining issuance or renewal of any certificate;

- (j) Failing to report as required by subsection (2) of this section;
- (k) Failing to comply with an order of the Education Professional Standards Board;
- (l) Violating any state statute relating to schools or the teaching profession;
- (m) Violating the professional code of ethics for Kentucky school certified personnel established by the Education Professional Standards Board through the promulgation of administrative regulation;
- (n) Violating any administrative regulation promulgated by the Education Professional Standards Board or the Kentucky Board of Education; or
- (o) Receiving disciplinary action or having the issuance of a certificate denied or restricted by another jurisdiction on grounds that constitute a violation of this subsection.

(2) \* \* \*

(3) \* \* \*

(4) \* \* \*

(5) \* \* \*

(6) \* \* \*

(7) \* \* \*

(8) \* \* \*

(9) \* \* \*

(10) \* \* \*

(11) \* \* \*

(12) \* \* \*

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A. **Duty to report** - the superintendent's duty to report conduct by a certified employee that may be in violation of this statute is clear. The only exception is that there is no duty to report nonrenewals or terminations based solely on teaching performance.

B. The statute grants broad authority to the **Education Professional Standards Board (EPSB)**. The EPSB has complete discretion in both the granting and revoking of certificates, along with all other disciplinary and investigative

powers necessary to carry out that authority.

VI. **KRS 161.750**  
**NONRENEWAL OF LIMITED CONTRACTS**

- (1) Any teacher employed under a **limited contract** may be re-employed under the provisions of KRS 161.720 to 161.810 for the succeeding school year at the same salary, plus any increment or decrease as provided by the salary schedule, upon notification of the board by the superintendent of schools that the contract of the teacher is renewed.
- (2) If the superintendent does not renew the contract he shall present written notice to the teacher that the contract will not be renewed **no later than May 15** of the school year during which the contract is in effect. Upon receipt of a request by the teacher, the superintendent shall provide a written statement containing the specific, detailed, and complete statement of grounds upon which the nonrenewal of contract is based.
- (3) The teacher shall be presumed to have accepted employment, unless he notifies the superintendent of schools in writing to the contrary on or before the **fifteenth of June**, and a written contract for the succeeding year shall be executed accordingly.

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- A. The district has very broad latitude in deciding whether to rehire **non-tenured teachers**. So long as the reason is not arbitrary, discriminatory, or otherwise in violation of the teacher's rights, any valid reason is sufficient.
  - B. **Specific, detailed and complete statement of grounds** - grounds are not the same as "cause" as defined under the termination statute (KRS 161.790).

VII. **KRS 161.790**  
**TERMINATION OF CONTRACT BY BOARD; ADMINISTRATIVE HEARING TRIBUNAL; SANCTIONS**

- (1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:
  - (a) **Insubordination**, including but not limited to violation of the school laws of the state or administrative regulations adopted by the Kentucky Board of Education, the Education Professional Standards Board, or lawful rules and regulations established by the local board of education for the operation of schools, or refusal to recognize or obey the authority of the superintendent, principal, or any other supervisory personnel of the board in the performance

of their duties.

- (b) **Immoral character or conduct unbecoming a teacher;**
  - (c) **Physical or mental disability;** or
  - (d) **Inefficiency, incompetency, or neglect of duty,** when a written statement identifying the problems or difficulties has been furnished the teacher or teachers involved.
- (2) Charges under subsections (1)(a) and (1)(d) of this section shall be supported by a written record of teacher performance by the superintendent, principal, or other supervisory personnel of the district, except when the charges are brought as a result of a recommendation made under KRS 158.6455.
- (3) No contract shall be terminated except upon notification of the board by the superintendent. Prior to notification of the board, the superintendent shall furnish the teacher with a written statement specifying in detail the charge against the teacher. The teacher may within ten (10) days after receiving the charge notify the commissioner of education and the superintendent of his intention to answer the charge, and upon failure of the teacher to give notice within ten (10) days, the dismissal shall be final.
- (4) Except as provided in KRS 163.032, upon receiving the teacher's notice of his intention to answer the charge, the commissioner of education shall appoint a **three (3) member tribunal**, consisting of one (1) teacher, who may be retired, one (1) administrator, who may be retired, and one (1) lay person, none of whom reside in the district, to conduct an administrative hearing in accordance with KRS Chapter 13B within the district. Priority for selection as a tribunal member shall be from a pool of potential tribunal members who have been designated and trained to serve as tribunal members on a regular and ongoing basis, pursuant to administrative regulations promulgated by the Kentucky Board of Education. Funds appropriated to the Department of Education for professional development may be used to provide tribunal member training. The commissioner of education shall name the chairman and set the date and time for the hearing. The hearing shall begin no later than forty-five (45) days after the teacher files the notice of intent to answer the charge.
- (5) A **hearing officer** shall have final authority to rule on dispositive prehearing motions.
- (6) The hearing may be public or private at the discretion of the teacher. At the hearing, a hearing officer appointed by the commissioner of education shall preside with authority to rule on procedural matters, but the tribunal shall be the ultimate trier of fact. The local board shall pay each member of the tribunal a per diem of one hundred dollars (\$100) and travel expenses.
- (7) Upon hearing both sides of the case, the tribunal may by a **majority vote** render its

decision or may defer its action for nor more than five (5) days. Provisions of KRS Chapter 13B notwithstanding, the tribunal decision shall be a final order and may be rendered on the record.

- (8) The superintendent may suspend the teacher pending final action to terminate the contract, if, in his judgment, the character of the charge warrants the action. If after the hearing the decision of the tribunal is against termination of the contract, the suspended teacher shall be paid his full salary for any period of suspension.
- (9) The teacher shall have the right to make an appeal to the Circuit Court having jurisdiction in the county where the school district is located in accordance with KRS Chapter 13B. The review of the final order shall be conducted by the Circuit Court as required by KRS 13B.150.
- (10) As an alternative to termination of a teacher's contract, the superintendent upon notifying the board and providing written notification to the teacher of the charge may impose other sanctions, including suspension without pay, public reprimand, or private reprimand. The procedures set out in subsection (3) of this section shall apply if the teacher is suspended without pay or publicly reprimanded. The teacher may appeal the action of the superintendent if these sanctions are imposed in the same manner as established in subsections (4) to (9) of this section. Upon completion of a suspension period, the teacher may be reinstated.

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A. **Insubordination** - requires a warning to teacher in writing their continued misconduct will lead to termination. The affect is to give teacher one free bite so to speak.

B. **Conduct Unbecoming a Teacher** - requires serious misconduct of an immoral and/or criminal nature and a direct connection between the misconduct and the teacher's work.

#### VIII. **KRS 161.765**

##### **PROCEDURES FOR DEMOTION OF ADMINISTRATIVE PERSONNEL; APPEAL**

- (1) A superintendent may **demote an administrator** who has not completed three (3) years of administrative service, not including leave granted under KRS 161.770, by complying with the requirements of KRS 161.760.
- (2) An administrator who has completed three years of administrative service, not including leave granted under KRS 161.770, cannot be demoted unless the following procedures have been complied with:

- (a) The superintendent shall give **written notice of the demotion** to the board of education and to the administrator. If the administrator wishes to contest the demotion, he shall, within ten (10) days of receipt of the notice, file a written statement of his intent to contest with the superintendent. If the administrator does not make timely filing of his statement of intent to contest, the action shall be final.
- (b) Upon receipt of the notice of intent to contest the demotion, a written statement of grounds for demotion, signed by the superintendent, shall be served on the administrator. The statement shall contain:
  - 1. A specific and complete statement of grounds upon which the proposed demotion is based, including, where appropriate, dates, times, names, places and circumstances;
  - 2. The date, time, and place for a hearing, the date to be not less than twenty (20) nor more than thirty (30) days from the date of service of the statement of grounds for demotion upon the administrator.
- (c) Upon receipt of the statement of grounds for demotion the administrator shall, within ten (10) days, file a written answer. Failure to file such answer, within the stated period, will relieve **the board** of any further obligation to hold a hearing and the action shall be final. The board shall issue subpoenas as are required.
- (d) The hearing on the demotion shall be public or private, at the discretion of the administrator and shall be limited to the matters set forth in the written statement of grounds for demotion. **The board** shall provide to the administrator a verbatim transcript of the hearing. The board of education shall hear the case, with the board chairman presiding. The board, upon hearing the evidence and argument presented, shall retire to private chambers to arrive at a decision. Counsel or representatives for either party in the hearing shall not be consulted by the board unless the corresponding counsel or representatives for the other party are present and unless a verbatim transcript of such consultation is made for the record.
- (e) Within five (5) days from the close of the hearing, **the board of education** shall advise the parties of its decision and shall take official action in the case.
- (f) Appeal from **final board action** may be taken in the same manner and under the same provisions as an appeal from tribunal action under KRS 161.790.

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- A. This statute describes the procedures that must be followed when an **administrator is demoted**. An administrator who has served less than three years as an administrator must be given written notice of the demotion by the appropriate deadline.

- B. An administrator who has completed three full years of service is entitled to a hearing before the board of education to review the superintendent's demotion decision.

IX. **KRS 161.760**

**NOTICE OF SALARY TO BE PAID TO TEACHER; INCREASES; REDUCTIONS IN RESPONSIBILITY**

- (1) The superintendent of schools shall give **notice not later than forty-five (45) days before the first student attendance day of the succeeding school year or June 15, whichever occurs earlier**, to each teacher who holds a contract valid for the succeeding school year, stating the best estimate as to the salary to be paid the teacher during the year. The salary shall not be lower than the salary paid during the preceding school year, unless the reduction is a part of a uniform plan affecting all teachers in the entire district, or unless there is a reduction of responsibilities. Nothing herein shall prevent increases of salary after the superintendent's annual notice has been given. All teachers who refuse assignment shall notify the superintendent in writing not later than thirty (30) days before the first student attendance day of the school year.
- (2) Transfer or change in appointment of teachers later than thirty (30) days before the first student attendance day of the school year shall be made only to fill vacancies created by illness, death, or resignations; to reduce or increase personnel because of a shift in school population; to make personnel adjustments after consolidation or merger; or to assign personnel according to their certification pursuant to KRS 161.010 to 161.120 provided, in the latter instance, that the teacher was appointed to a position outside his or her field of certification in the previous year.
- (3) **Reduction of responsibility for a teacher** may be **accompanied by a corresponding reduction in salary** provided that written notification stating the specific reason for the reduction shall be furnished to the teacher **not later than ninety (90) days before the first student attendance day of the school year or May 15**, whichever occurs earlier.
- (4) Employment of a teacher, under either a limited or a continuing contract, is employment in the school district only and not in a particular position or school.

X. **KRS 160.370**

**SUPERINTENDENT AS EXECUTIVE AGENT OF BOARD; DUTIES**

The superintendent shall be the executive agent of the board that appoints him and shall meet with the board, except when his own tenure, salary, or the administration of his office is

under consideration. As executive officer of the board, the superintendent shall see that the laws relating to the schools, the bylaws, rules, and regulations of the Kentucky Board of Education, and the regulations and policies of the district board of education are carried into effect. He may administer the oath required by the board of education to any teacher or other person. He shall be the professional adviser of the board in all matters. He shall prepare, under the direction of the board, all rules, regulations, bylaws, and statements of policy for approval and adoption by the board. He shall have general supervision, subject to the control of the board of education, of the general conduct of the schools, the course of instruction, the discipline of pupils, and the management of business affairs. **He shall be responsible for the hiring and dismissal of all personnel in the district.**

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- A. This statute makes it clear the superintendent is solely responsible for the hiring and dismissal of all personnel in the district.
- B. KRS 160.180 provides that any board member is subject to removal from office if he/she attempts to influence the hiring of any school employee, except the superintendent of schools or school board attorney.