

1 **16 KAR 1:030. Procedures for certificate revocation, suspension, reinstatement and**  
2 **reissuance, and application denial.**

3 RELATES TO: KRS 161.028(1), 161.120, 218A.010(5)

4 STATUTORY AUTHORITY: KRS 161.028(1), 161.175(2)

5 NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028(1) authorizes the Education  
6 Professional Standards Board to establish standards and requirements for obtaining and  
7 maintaining a teaching certificate. KRS 161.175(2) authorizes the Education Professional  
8 Standards Board to promulgate administrative regulations requiring a teacher whose certificate  
9 has been suspended or revoked by the Education Professional Standards Board because the  
10 teacher engaged in misconduct involving the illegal use of controlled substances to submit to  
11 drug testing. This administrative regulation identifies the conditions for initiating a disciplinary  
12 action against a teaching or administrative certificate and establishes procedures for certificate  
13 reinstatement, reissuance, and application denial.

14 Section 1. Disciplinary Action Against a Certificate. (1) The Education Professional  
15 Standards Board may initiate disciplinary action against a Kentucky teaching or administrative  
16 certificate upon receipt from any source of a report which contains allegations that an individual  
17 who holds a Kentucky teaching or administrative certificate has engaged in conduct listed in  
18 KRS 161.120(1).

19 (2) The report shall be in writing, contain a detailed description of the alleged  
20 misconduct, identify the name of the educator, and identify school district and school, if  
21 applicable, where the educator is employed.

22 (3) A disciplinary action shall be initiated if after a preliminary inquiry to verify the facts  
23 in the report, there is credible evidence that the allegations in the report are true.

1           (4) The report or complaint shall be reviewed by a committee of the Education  
2 Professional Standards Board. The committee shall consist of three teacher representatives of the  
3 Education Professional Standards Board who shall determine whether to initiate a disciplinary  
4 action.

5           (5) Upon initiating a disciplinary action against a Kentucky teaching or administrative  
6 certificate, the Education Professional Standards Board shall send a copy of the report or  
7 complaint to the certificate holder.

8           (6) The certificate holder shall have thirty (30) days from receipt of the report or  
9 complaint to submit a written rebuttal to the allegations.

10           (7) At the conclusion of the thirty (30) day rebuttal period or upon receipt of the rebuttal,  
11 whichever occurs first, the complaint or report shall be prepared for initial review by the  
12 Education Professional Standards Board at its next regularly scheduled meeting.

13           (8) At the initial review of the disciplinary action, the Education Professional Standards  
14 Board shall review a summary of the complaint or report and a copy of the rebuttal. The  
15 summary and the rebuttal shall be redacted to remove proper names of persons and places to  
16 ensure the certificate holder's confidentiality during the initial review.

17           (9) At the conclusion of the initial review, the Education Professional Standards Board  
18 may take the following actions:

19           (a) Defer consideration of the disciplinary case until a future meeting for further  
20 information;

21           (b) Dismiss the disciplinary case;

22           (c) Dismiss as remediated if the actions taken or training provided by the school or school  
23 district were sufficient and no further corrective action is required.

1           (d) Defer consideration of disciplinary case until a future meeting to give the certificate  
2 holder an opportunity to complete remedial training or counseling in exchange for a dismissal of  
3 the disciplinary case;

4           (e) Admonish the certificate-holder in accordance with KRS 161.120(4); or

5           (f) Order an investigation into the allegations found in the complaint or report.

6           (8) Disciplinary cases shall be assigned to a prosecuting attorney within ten (10) days of  
7 the decision to order an investigation and the certificate holder shall be notified in writing of the  
8 identity of the prosecuting attorney.

9           (9) If the Education Professional Standards Board orders an investigation into the  
10 allegations, the investigation must be completed within 180 days of the order to investigate.

11           (10) If other allegations of misconduct arise during the investigation into the allegations  
12 found in the complaint or report, they may be investigated without further action by the  
13 Education Professional Standards Board.

14           (11) At the conclusion of the investigation:

15           (a) If there is insufficient evidence to prove at an administrative hearing that the  
16 allegations of misconduct occurred, the disciplinary case shall be presented to the Education  
17 Professional Standards Board at its next regularly scheduled meeting to be dismissed; or

18           (b) If there is sufficient evidence to prove at an administrative hearing that an individual  
19 who holds a Kentucky teaching or administrative certificate has engaged in conduct listed in  
20 KRS 161.120(1), the prosecuting attorney shall prepare a statement of issues and charges and an  
21 offer of settlement for review by the certificate holder within thirty (30) days of completing the  
22 investigation and notice of compliance shall be filed with the Education Professional Standards  
23 Board.

1           (12) The certificate holder shall have thirty (30) days from the date the statement of  
2 issues and charges and offer of settlement are sent to consider the offer and to make either a  
3 counter offer or a demand for hearing.

4           (13) At the conclusion of thirty (30) days from the date the statement of issues and  
5 charges and offer of settlement are sent, either party may request a hearing by filing written  
6 notice with the Education Professional Standards Board.

7           (14) Administrative charges shall be filed within ten (10) days of receipt of written notice  
8 of a request for a hearing.

9           ~~Initiating Disciplinary Action Against a Certificate. (1) The Education Professional~~  
10 ~~Standards Board may initiate disciplinary action against a Kentucky teaching or administrative~~  
11 ~~certificate upon receipt from any source of a report or complaint which contains allegations that~~  
12 ~~an individual who holds a Kentucky teaching or administrative certificate has engaged in~~  
13 ~~conduct listed in KRS 161.120(1).]~~

14           (2) The report or complaint shall be reviewed by a committee of the Education  
15 Professional Standards Board. The committee shall consist of three teacher representatives of the  
16 Education Professional Standards Board who shall determine whether to initiate a disciplinary  
17 action.

18           (32) Upon initiating a disciplinary action against a Kentucky teaching or administrative  
19 certificate, the Education Professional Standards Board shall send a copy of the report or  
20 complaint to the certificate holder.

21           (43) The certificate holder shall have thirty (30) days from receipt of the report or  
22 complaint to submit a written rebuttal to the allegations.

1 ~~(54) At the conclusion of the thirty (30) day rebuttal period or upon receipt of the~~  
2 ~~rebuttal, whichever occurs first, the complaint or report shall be prepared for initial review by the~~  
3 ~~Education Professional Standards Board at its next regularly scheduled meeting.~~

4 ~~(65) At the initial review of the disciplinary action, the Education Professional Standards~~  
5 ~~Board shall review a summary of the complaint or report and a copy of the rebuttal. The~~  
6 ~~summary and the rebuttal shall be redacted to remove proper names of persons and places to~~  
7 ~~ensure the certificate holder's confidentiality during the initial review.~~

8 ~~(76) At the conclusion of the initial review, the Education Professional Standards Board~~  
9 ~~may take the following actions:~~

10 ~~(a) Defer consideration of the disciplinary case until a future meeting for further~~  
11 ~~information;~~

12 ~~(b) Dismiss the disciplinary case;~~

13 ~~(c) Defer consideration of disciplinary case until a future meeting to give the certificate~~  
14 ~~holder an opportunity to complete remedial training or counseling in exchange for a dismissal of~~  
15 ~~the disciplinary case;~~

16 ~~(d) Admonish the certificate holder in accordance with KRS 161.120(4); or~~

17 ~~(e) Order an investigation into the allegations found in the complaint or report.~~

18 ~~(87) If other allegations of misconduct arise during the investigation into the allegations~~  
19 ~~found in the complaint or report, they may be investigated without further action by the~~  
20 ~~Education Professional Standards Board.~~

21 ~~(98) If the Education Professional Standards Board orders an investigation into the~~  
22 ~~allegations, the investigation must be completed within ninety (90) days. If the investigation is~~  
23 ~~not completed within ninety (90) days, the case must be brought back before the Education~~

1 ~~Professional Standards Board with a memo explaining why the investigation has not been~~  
2 ~~completed, and requesting an extension of time to complete the investigation.~~

3 ~~(10) At the conclusion of the investigation:~~

4 ~~(a) If there is no credible evidence that the allegations of misconduct occurred, the~~  
5 ~~disciplinary case shall be presented to the Education Professional Standards Board at its next~~  
6 ~~regularly scheduled meeting to be dismissed; or~~

7 ~~(b) If there is credible evidence that an individual who holds a Kentucky teaching or~~  
8 ~~administrative certificate has engaged in conduct listed in KRS 161.120(1), the disciplinary case~~  
9 ~~shall be prepared for a hearing in accordance with KRS 161.120 (5)(a).~~

10 ~~(c) The respondent may make a written request for a hearing. Education Professional~~  
11 ~~Standards Board Legal Staff must prepare and file administrative charges within twenty (20)~~  
12 ~~days of the receipt of the request. If the investigation is not completed, the charges must be filed~~  
13 ~~within twenty (20) days of the conclusion of the investigation.~~

14 Section 2. Reinstatement and Reissuance of Certificate. (1)(a) A certificate that has been  
15 suspended by the Education Professional Standards Board shall not be reinstated until the  
16 certificate holder has met all conditions and requirements ordered by the Education Professional  
17 Standards Board.

18 (b) If a certificate lapses during a period of suspension, at the end of the suspension  
19 period and upon completion of all conditions and requirements ordered by the Education  
20 Professional Standards Board, the certificate holder shall apply for renewal of the certificate and  
21 shall meet all educational requirements for renewal of the certificate.

22 (2) An individual whose certificate has been revoked shall complete the Form CA-  
23 1, [~~"Application for Kentucky Certification or Change in Salary Rank", Form TC-1,~~]

1 incorporated by reference in 16 KAR 2:010, and pay all applicable fees in accordance with 16  
2 KAR 4:040 prior to the reissuance of the certificate.

3 (3) The burden of proving suitability for reissuance of a revoked certificate shall rest on  
4 the applicant seeking reinstatement.

5 (4) If reissuing a certificate, the Education Professional Standards Board may include  
6 terms and conditions that the board reasonably deems appropriate as a condition of reissuance in  
7 accordance with KRS 161.120(11)(b).

8 (5) An applicant for reissuance of a revoked certificate shall satisfy all current  
9 educational requirements for the certificate.

10 (6)(a) If a certificate is suspended or revoked because the certificate holder engaged in  
11 misconduct involving the illegal use of a controlled substance as defined in KRS 218A.010(5), in  
12 addition to conditions for reinstatement or reissuance, the certificate holder shall at the certificate  
13 holder's own expense provide written evidence that the certificate holder has submitted to a drug  
14 test administered by a drug testing facility approved by the Education Professional Standards  
15 Board within thirty (30) days of reinstatement or submission of an application for reissuance of  
16 the certificate.

17 (b) If the results of the drug test indicate drug use by the certificate holder, the certificate  
18 shall not be reinstated or reissued.

19 (c) The certificate holder shall arrange for the drug testing facility to send the results of  
20 the drug test directly to the Education Professional Standards Board.

21 (d) A drug test conducted under this subsection shall at a minimum test for the following  
22 controlled substances:

23 1. Marijuana;

- 1           2. Cocaine;
- 2           3. Opiates;
- 3           4. Amphetamines;
- 4           5. Phencyclidene;
- 5           6. Morphine;
- 6           7. MDMA (Ecstasy);
- 7           8. Methadone;
- 8           9. Benzodiazepines;
- 9           10. Barbiturates; and
- 10          11. Oxycodone.

11           (e)1. A certificate holder subject to the terms of this subsection may petition the  
12 Education Professional Standards Board to approve a drug testing facility of the certificate  
13 holder's choice.

- 14           2. The petition shall contain the following information:
  - 15           a. The drug testing facility's name and location;
  - 16           b. The name and telephone number for the director of the facility;
  - 17           c. The method of test specimen collection;
  - 18           d. The drug testing facility's method of assuring identity of the test subject;
  - 19           e. Procedures for testing specimens, including forensic testing methods; and
  - 20           f. Chain of custody protocols.

21           Section 3. Denial of Application for a Certificate. If the Education Professional Standards  
22 Board denies an individual's application for a Kentucky teaching or administrative certificate

- 1 pursuant to this administrative regulation, the individual may file an appeal in accordance with
- 2 KRS 161.120(5)(a)2.

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