

Education Professional Standards Board
PROCEDURES RELATING TO EPSB ACTION
ON AN EDUCATOR’S CERTIFICATION

Effective: December 13, 2021
(Approved October 11, 2021)

Section 1. Purpose

The Education Professional Standards Board (“EPSB”) has the authority to take action upon any certificate or license issued under KRS 161.010 to KRS 161.100 for any of the reasons set forth in KRS 161.120(1). The EPSB is charged by statute with the vitally important public trust of administering a system of professional standards that will ensure that Kentucky school children receive a quality education from well-qualified professionals. The EPSB may take action against an educator’s certificate in an effort to either ensure that an educator has an understanding of an educator’s professional duties and responsibilities; and/or protect students, parents of students, school personnel, or school officials. 16 KAR 1:030. The EPSB may initiate any combination of the actions set forth below. KRS 161.120 and KRS 161.028.¹

- A. Admonishment:** an admonishment is a written censure issued by the EPSB pursuant to KRS 161.120(4), and is appropriate for violations of KRS 161.120(1) that are not serious in nature. An admonishment is placed in the case file of the educator.
- B. Reprimand:** a reprimand is a formal written censure that may be utilized once the EPSB votes to send a case to an attorney or votes to initiate the hearing process. A reprimand may only be utilized in an Agreed Order or a Final Order.
- C. Suspension:** a suspension is a process by which the EPSB temporarily deactivates an educator’s certification for a specified period of time, not to exceed two years. KRS 161.120(10). At the conclusion of the specified period of time, the EPSB staff is required to reactivate the educator’s certificate upon a demonstration that the educator has complied with any reinstatement conditions that may be set forth in an Agreed Order or Final Order. KRS 161.120(10).
- D. Revocation:** a revocation is a permanent forfeiture of an educator’s certification. The EPSB is required to establish the minimum period of time before an applicant can reapply for a new certificate. KRS 161.120(11). Once the period of time has expired, the EPSB may consider a former educator’s re-application for certification upon demonstration by the applicant that the former educator is again fit for practice. KRS 161.120(11).
- E. Probationary or Supervisory Conditions:** the EPSB also has the authority to impose probationary or supervisory conditions upon an educator’s certificate. KRS 161.120(1). This authority shall include the authority to require training.
- F. Surrender:** a surrender occurs when an educator voluntarily agrees to a permanent forfeiture of the educator’s certificate. A surrender is a revocation of the certificate.

¹ To the extent the procedures are inconsistent with the statutory or regulatory language, the statutes and regulations control.

Section 2. Complaints and Reports

The EPSB receives reports or complaints against an educator or educators alleging a violation or violations of KRS 161.120(1) from superintendents, under KRS 161.120(2)(a), and from other sources under KRS 161.120(2)(c). Complaints may be made by any person, organization, or entity provided that they are in writing and signed by the person or representative of the organization or entity offering the complaint. An electronic signature will satisfy the requirement of a signed complaint. 16 KAR 1:030.

I. Intake.

- A.** Superintendents of local school districts have a duty, pursuant to KRS 161.120(2), to file written reports with the EPSB that contain the full facts and circumstances leading to the contract termination or nonrenewal, resignation, or other absence, conviction, or otherwise reported actions or conduct that might reasonably warrant action against an educator's certificate under KRS 161.120(1). Failure to submit a timely, complete report may result in action against the superintendent's certificate pursuant to KRS 161.120(1)(j).

1. When to Report.

- a.** A superintendent must submit a report to the EPSB within 30 days of the event giving rise to the duty to report. KRS 161.120(2)(a);
- b.** If additional information is obtained by the superintendent after the initial report, the superintendent shall supplement the report. KRS 161.120(2)(b);
- c.** A superintendent's duty to report includes reporting those convictions committed by an educator that occurred prior to the date an educator's certificate was issued. KRS 161.120(2)(b);
- d.** If the event giving rise to the duty to report relates to an educator's criminal conviction, then the superintendent must submit a report to the EPSB within 30 days after the superintendent became aware of the criminal conviction;
- e.** A superintendent is required to report allegations that have already been reported in the media.

2. Contents of Report.

- a.** The report must contain the employee's full name, most recent contact information on file for the employee including address and phone number, social security number and position title. KRS 161.120(2)(a). If the school district has a personal email address on file for the employee, the superintendent should include the email address in the report;
- b.** The report must contain the full facts and circumstances of the conduct. KRS 161.120(2)(b). An allegation without any supporting facts or documentation is an insufficient report that may result in action against a superintendent's certificate pursuant to KRS 161.120(1)(j);
- c.** The superintendent is required to forward all relevant documents and records in the superintendent's possession. This includes but is not limited

to the investigative report, witness statements, disciplinary letter, security camera footage, screen shots or pictures, police reports/citations, school district policies, and interview transcripts, unless prohibited by law.

i. The superintendent shall preserve any records, including audio or video, in the district's possession related to the reported conduct. Failure to preserve the records and submit with the report may result in action against a superintendent's certificate pursuant to KRS 161.120(1)(j).

d. The duty to report exists without regard to any disciplinary action, or lack thereof, by the superintendent. KRS 161.120(2)(a).

B. The EPSB may consider reports or complaints from any other source, including but not limited to parents/guardians, educators, media postings, and other government entities such as the Attorney General's Office, Office of Education Accountability, and the Cabinet for Health and Family Services. Complaints should be sent by mail, fax or email. Anonymous complaints will not be accepted.

II. Review. The Commissioner or designee and staff will review all reports and complaints to determine whether the report or complaint contains sufficient credible evidence that a violation of KRS 161.120(1) may have occurred.

A. If the report or complaint contains insufficient credible evidence that conduct may have occurred that would constitute a violation of KRS 161.120(1), staff will gather additional information or facts through public sources. A public source includes, but is not limited to, any public agency that is subject to state or federal open records law.

B. After an attempt has been made to obtain additional information or facts from public sources, the Commissioner or designee and staff will re-evaluate the report or complaint to determine if there is sufficient credible evidence to establish that a violation of KRS 161.120(1) may have occurred. If there is still insufficient credible evidence that a violation of KRS 161.120(1) has occurred, the report or complaint will be closed, but it will be retained in the event additional information is received.

1. Reports or complaints that relate to an educator where there is insufficient credible evidence that a violation of KRS 161.120(1) occurred will be kept on file for five (5) years from the date the Commissioner or designee and staff determine there is insufficient evidence that a violation occurred.

2. Reports or complaints that relate to a non-certified individual will be kept on file for one (1) year after notification of the death of that individual per the EPSB's Records Retention Schedule.

3. Reports or complaints are not subject to disclosure pursuant to KRS 61.878(1)(i) and (j). See OAG 17-ORD-198.

III. Notice to Educator.

- A.** If the report or complaint contains sufficient credible evidence that a violation of KRS 161.120(1) may have occurred, staff will open a case file and assign that file a number.
- 1.** If multiple reports or complaints that contain sufficient credible evidence that a violation of KRS 161.120(1) may have occurred are received regarding an educator before any action is taken by the EPSB, all of the reports and/or complaints will be consolidated into a single case file.
 - 2.** If an additional report or complaint that contains sufficient credible evidence that a violation of KRS 161.120(1) may have occurred is received regarding an educator after the EPSB has issued a dismissal or an admonishment and the matter is otherwise closed, the report or complaint will be given a new case file number.
 - 3.** If an additional report or complaint that contains sufficient credible evidence that a violation of KRS 161.120(1) may have occurred is received regarding an educator after the EPSB has deferred the case for training, deferred the case for more information, or referred the matter for Attorney Review and Investigation, the additional report or complaint will be consolidated with the existing case file.
 - a.** When a complaint or report is consolidated with an existing case file, a copy of the complaint or report will be sent to the educator or the educator's attorney. KRS 161.120(2)(d). The educator or the educator's attorney will be given the opportunity to submit a written rebuttal within thirty (30) days from receipt of the complaint or report. If a rebuttal is submitted, it will be included in the educator's case file.
- B.** When a case file is opened, the EPSB staff shall ensure that the educator is served with a copy of the written complaint or report alleging violations of KRS 161.120(1) along with a Notification of Report or Complaint (Notification) to the educator's last known address on file with the EPSB. The Notification shall:
- 1.** Notify the educator that the EPSB has received a report or complaint pursuant to KRS 161.120(1);
 - 2.** Provide the educator with a copy of the report or complaint;
 - 3.** Notify the educator that the educator has thirty (30) days from the date the educator receives the Notification to provide the EPSB with a written rebuttal.
 - 4.** Notify the educator that the EPSB will review the report or complaint and written rebuttal to determine whether further action is necessary.
 - 5.** Notify the educator that the report or complaint is deemed confidential and should not be disclosed by the educator for any other purpose other than for preparing a rebuttal.
 - 6.** Notify the educator that all names, addresses, and counties will be redacted in order to protect the confidentiality of the educator and witnesses.
 - 7.** Notify the educator that the educator can opt into electronic notification from the EPSB, so long as another means of service are not required by law.

IV. Rebuttal. The educator shall have the right to file a written rebuttal with the EPSB within thirty (30) days from the date the educator receives the complaint or report from the EPSB, unless the parties agree to extend the time.

- A. To request a rebuttal extension, the educator or their attorney shall send their request in writing to the EPSB's Clerk of Court. The request may be sent by mail, fax or email.
- B. Staff shall add the case to the EPSB's Closed Session Review Docket and prepare the case file for the EPSB to review by redacting all the educator's identifiers if one (1) of the following occurs:
 - 1. the educator's rebuttal is received;
 - 2. the Notification is returned as undeliverable; or
 - 3. the educator:
 - a. fails to file a rebuttal with the EPSB; and
 - b. has not requested to extend the thirty (30) day deadline.

V. Closed Session Review Docket. In advance of each of its regularly scheduled EPSB meetings, staff shall prepare the Reports and Complaints for EPSB review.

- A. The EPSB will receive summaries of the Reports and Complaints as well as redacted copies of the full corresponding written rebuttals for those matters it will be reviewing at the EPSB meeting.
 - 1. If a member of the EPSB wants to review redacted copies of actual Reports and Complaints at the EPSB meeting, the EPSB member shall be given access to the full redacted case file on the day of the EPSB meeting.
 - 2. To the greatest extent possible, the EPSB member wishing to access the redacted case file shall make a request to staff, in advance of the EPSB meeting to give staff sufficient time to redact the case file.

B. Timeline.

- 1. **Docket:** In order to provide the EPSB with sufficient time to review all closed session materials, the Closed Session Review Docket closes 26 days prior to the scheduled EPSB meeting.
- 2. **Addendum:** In order to resolve cases in an efficient manner, and to provide the EPSB with sufficient time to review all closed session materials, the Addendum closes five days prior to the scheduled EPSB meeting at 12:00 p.m. EST.

C. Contents. This includes, but is not limited to the following:

1. Docket:

- a. Reports and Complaints received pursuant to KRS 161.120(2), and opened pursuant to Section 2, III. and any corresponding rebuttals submitted;
- b. Certification applications that are required to be reviewed by the EPSB pursuant to the Board's Procedures Relating to Character and Fitness Applications;
- c. Agreed Orders of settlement received pursuant to KRS 161.120(8);
- d. Recommended Orders received pursuant to KRS 13B.110, if the period to file exceptions has lapsed; and
- e. Motions to Reconsider received pursuant to KRS 161.120(9).

2. Addendum:

- a. Certification applications that are required to be reviewed by the EPSB pursuant to the Board's Procedures Relating to Character and Fitness Applications;
- b. Agreed Orders of settlement received pursuant to KRS 161.120(8);
- c. Recommended Orders received pursuant to KRS 13B.110, if the period to file exceptions has lapsed; and
- d. Motions to Reconsider received pursuant to KRS 161.120(9).
- e. Reports and Complaints received after the Docket has closed will not be included on the Addendum.

VI. EPSB Review. At each regularly scheduled EPSB meeting, the EPSB will discuss the Reports and Complaints in closed session.

A. When making a determination as to how to proceed, the EPSB shall consider the following factors:

- 1. the seriousness of the alleged violation;
- 2. whether the alleged misconduct was premeditated or intentional;
- 3. attempted concealment of alleged misconduct;
- 4. prior misconduct;
- 5. whether training is appropriate to prevent further violations;
- 6. whether the sanction is necessary to deter future violations; and
- 7. any other relevant circumstances or facts.

B. Permanent revocation may be warranted in some cases. Examples of some cases where permanent revocation may be warranted may include, but are not limited to, the following scenarios:

1. engaged in any sexual contact with a student or minor;
2. solicited any sexual contact with a student or minor;
3. possessed or distributed child pornography;
4. was registered as a sex offender;
5. committed criminal homicide;
6. transferred, sold, distributed, or conspired to possess, transfer, sell, or distribute any controlled substance, the possession of which would be at least a Class A misdemeanor under the Kentucky Revised Statutes, Chapter 218A, on school property; or
7. received disciplinary action or had the issuance of a certificate denied or restricted by another jurisdiction. The findings of fact contained in final orders from any other jurisdiction may provide the factual basis for EPSB action, if the underlying conduct for the action is a violation of Kentucky law.

VII. EPSB Action. The EPSB may take action upon confirmation that a quorum exists. If a quorum exists, the EPSB may take one of the following actions by majority vote:

A. Deferral. Deferral is appropriate when more information is needed before the EPSB can take action; the report or complaint will only be deferred until the next EPSB meeting.

1. If, by majority vote, the EPSB decides that it would like additional information before taking action, the EPSB shall direct staff to gather additional information from the reporting school district and/or from public sources and bring the case back before the EPSB as part of the Closed Session Review Docket.
2. The EPSB staff shall either provide the additional information sought by the EPSB at the next regularly scheduled EPSB meeting or, if the additional information is not available by the next regularly scheduled EPSB meeting, the EPSB staff shall be prepared to update the EPSB as to when the EPSB staff anticipates that the additional information will be received.
3. A deferral does not constitute a final action.

B. Dismissal with Prejudice. Dismissal with Prejudice is appropriate when the merits of the case do not warrant any action by the EPSB. Dismissal with Prejudice is also appropriate after the educator has completed the training requested by the EPSB through Deferral for Training and provided written proof to the EPSB.

1. An Order of Dismissal with Prejudice constitutes final action. No further action may be taken on this complaint.
2. Orders of Dismissal with Prejudice are filed as part of the case file. Pursuant to the EPSB's Records Retention Schedule, Educator Disciplinary Records must be retained one (1) year after notification of the educator's death.

C. Dismissal without Prejudice. Dismissal without Prejudice is based on other factors including, but not limited to, incomplete reporting, and lack of cooperation by witnesses. A dismissal at this juncture does not prohibit the alleged conduct from being the subject of a new report or complaint brought back before the EPSB.

1. The EPSB reserves the right to review the case file at a later date should additional information be received in the future.
2. A Dismissal without Prejudice does not constitute final action.

D. Deferral for Training. Deferral for Training is appropriate when the EPSB determines that additional professional development of an educator is warranted. The EPSB may offer the educator an opportunity to complete specific training within a specific time period. If the educator completes the training within the time period, the educator shall present written proof of training to the EPSB. The EPSB will then enter an Order of Dismissal with Prejudice if the EPSB determines that the educator has satisfactorily completed the training requirement.

1. It is the educator's responsibility to identify and seek appropriate approval for a training. If the educator takes a training course that has been pre-approved by the EPSB, no additional approval is required. If the educator locates a training that has not been pre-approved by the EPSB, the educator should request one-time approval prior to completing the training.
2. If the educator fails to either complete the training or fails to provide evidence to the EPSB of completed training during the required timeframe, the EPSB staff will put the case back on the Closed Session Review Docket for possible action by the EPSB.
3. Deferral for Training does not constitute final action.

E. Admonishment. The EPSB may issue a written admonishment to the educator if the EPSB determines, based on the evidence, a violation has occurred, but the violation is not of a serious nature. KRS 161.120(4).

1. The EPSB staff shall send a copy of the written admonishment to the educator's address on file with the EPSB, unless a different method of service has been agreed to by the parties.
2. Upon receipt of the written admonishment, the educator may:
 - a. Accept the written admonishment;
 - b. Accept the written admonishment, but provide a response within thirty (30) days of receipt of the admonishment and have it placed in the educator's case file along with the written admonishment; or

4. Review and Investigation.

- a.** The assigned attorney will review the evidence contained in the investigative case file and determine what additional evidence is needed to evaluate the case.
- b.** The assigned attorney will take all steps necessary to gather information or evidence necessary to evaluate case.

5. Recommendations

- a.** Once the assigned attorney is satisfied that all information and evidence reasonably available has been collected, the attorney shall make a recommendation to the EPSB.
 - i.** At any point during the review and investigation process, the EPSB staff has the authority to enter into discussions with an educator or an educator's attorney to resolve the action by agreed order. KRS 161.120(8)
 - ii.** An agreed order is appropriate when there is sufficient evidence that could result in a finding that the alleged misconduct did occur, and the educator is willing to accept sanctions without going to the expense of a hearing.
 - iii.** All agreed orders must be approved by a majority of the EPSB and signed by the EPSB chair.
 - iv.** The educator has the right to request a hearing at any point after an Agreed Order has been offered and rejected.

G. Referral to Hearing. Referral to Hearing is appropriate when the EPSB is satisfied, based on the report provided by staff that the alleged conduct occurred and that sanctions are warranted. Referral to Hearing is also appropriate when the educator requests a hearing after receiving a written admonishment or the educator's application for certification has been denied and the educator has requested a hearing. KRS 161.120(5)(a).

VIII. Notice of EPSB Action on Reports or Complaints. Once the EPSB has taken any of the actions set forth above, staff or the EPSB chair shall issue a Notice of EPSB Action on Report or Complaint (Notice of Action) to the educator.

- A.** The Notice of Action will be sent as soon as practicable to the educator's address on file with the EPSB, unless a different method of service has been agreed to by the parties.
- B.** The Notice of Action will also be sent to the reporting party.

Section 3. Hearing Process.

The EPSB must initiate a due process hearing before sanctions are imposed upon an educator's certificate, unless sanctions are agreed to by the parties. KRS 161.120(5)(a), KRS 161.120(8). A hearing may also be initiated upon timely request of the educator after receiving an admonishment or after the educator's application for certification has been denied. KRS 161.120(5)(a). The administrative hearing shall be conducted in conformance with the provisions of KRS Chapter 13B. In all cases, the EPSB shall initiate the administrative hearing process through a "Notice of Hearing and Statement of Charges and Issues" (Statement of Charges) that informs the educator of the specific reason for the proposed action including the statutory and/or regulatory violation(s), the factual basis on which the action is based, and the penalty the EPSB is seeking. The hearing process begins once the EPSB approves and issues a Statement of Charges prepared by the assigned attorney.

I. Agreed Orders. At any point during the hearing process, the EPSB staff has the authority to enter into discussions with an educator or an educator's attorney to resolve the action by agreed order. KRS 161.120(8). If the educator enters into an Agreed Order, the educator waives the due process rights afforded under KRS 161.120 and KRS 13B.

II. Prehearing.

A. Filing Statement of Charges.

1. Once approved and issued, the original Statement of Charges shall be filed with the EPSB's Clerk of Court, and a copy shall be sent via certified mail to the educator's address on file with the EPSB, or any other means permitted by law.
2. A copy of the Statement of Charges shall also be sent to the educator's attorney, if any.
3. The EPSB staff shall forward a copy of the Statement of Charges to an appointed hearing officer as set forth in KRS Chapter 13B.

B. Record. The original of all filings shall be submitted to the EPSB's Clerk of Court by email, fax or mail, and copies of any filed item shall be served on all parties and the hearing officer by mail, or any other means permitted by law.

C. Location of Hearing. Unless otherwise agreed to by the parties, all hearings shall be conducted in the offices of the EPSB.

D. Right to Private Hearing. The educator may request in writing a public or private hearing pursuant to KRS 161.120(5)(b). If the educator fails to specifically request a private hearing in writing at least five days prior to the hearing, the educator is deemed to have waived the right to a private hearing and a public hearing will be conducted.

III. Hearing.

A. Burden of Proof. KRS 13B.090(7).

1. The EPSB's proposed action on a certification currently held.

- a. The EPSB has the burden of proof on any issue, has the burden of going forward, and the ultimate burden of persuasion as to that issue.
 - b. The EPSB must demonstrate by a preponderance of the evidence in the record that the penalty sought is appropriate.
 - c. The educator has the burden of asserting an affirmative defense and has the burden to establish that defense.
2. Applicant's appeal on the EPSB's denial of an application of certification, or any other entitlement sought, to the applicant.
 - a. The applicant has the burden of proof and the ultimate burden of persuasion as to that issue.
 - b. The applicant must demonstrate by a preponderance of the evidence in the record entitlement to the benefit sought.
 - c. The EPSB has the burden of asserting an affirmative defense and has the burden to establish that defense.

B. Recommended Order.

1. **Sanctions.** The hearing officer's Recommended Order shall include only those sanctions that are permitted pursuant to KRS 161.120(1) and shall not exceed the time limits set forth in KRS 161.120(10) - (11).
2. **Factors.** The hearing officer shall consider the factors set forth in 16 KAR 1:030 Section 2(3)(f) when recommending sanctions.

C. Filing of Exceptions.

1. **Service.** A party may file any exceptions to the Recommended Order within 15 days of the date the Recommended Order is mailed in accordance with KRS 13B.110(4), if applicable. The original shall be filed with the EPSB's Clerk of Court by email, fax or mail and copies shall be served on all parties and the hearing officer by mail, or any other means permitted by law.
2. **Waiver.** Any disagreement with a factual finding, conclusion of law or recommended disposition in the Recommended Order not contained in an exception to the Recommended Order shall be waived.
3. **Form of Exceptions.** Each exception to a finding of fact, conclusion of law or recommended disposition shall be concisely stated and should summarize the evidence in support of each exception.
 - a. Any evidence or arguments relied upon shall be grouped under the exceptions to which they relate.

disclosure upon the EPSB's issuance of its Final Order unless specifically closed by the hearing officer pursuant to a provision of law.

- 1. Redaction.** Prior to the public disclosure of the case file in accordance with KRS 61.870, et seq., staff shall ensure that any information otherwise prohibited from disclosure by law or regulation is redacted.

V. Administrative Finality. All Final Orders are appealable to Franklin Circuit Court as outlined in KRS Chapter 13B and KRS 161.120(12).

Section 4. Procedure for Suspension, Surrender or Revocation of a Certificate.

The EPSB has the authority to suspend or revoke an educator's certificate under KRS 161.120(1). Suspension of a certificate shall be for a specific period of time, not to exceed two years and may be reinstated after the suspension period, if all required conditions are met. KRS 161.120(10). Revocation of a certificate is a permanent forfeiture of the certificate. If the revocation is for a term of years, an applicant may apply for a new certificate at the end of the revocation period, if all required conditions are met. KRS 161.120(11).

- I.** When the EPSB issues an order of suspension, surrender, or revocation, staff shall mail a copy of the order to the educator's address on file with the EPSB, unless a different method of service has been agreed to by the parties. Copies shall also be sent to the educator's attorney, if any, the appointed hearing officer, if any, the reporting party, and the employing school district if different from the reporting party.
- II.** The order of suspension, surrender, or revocation of a certificate shall become part of the educator's case file maintained by the EPSB.

III. Following each EPSB meeting, staff shall ensure that:

A. The suspension, surrender, or revocation is noted on the EPSB website.

- 1.** The period of suspension shall only be noted on the website while the certificate is suspended.
- 2.** The period of revocation shall be noted on the certificate and shall remain on the EPSB website.

B. The suspension, surrender, or revocation is noted in the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse.

- 1.** The Clearinghouse is a searchable database administered by NASDTEC relating to educator certification and discipline. Only NASDTEC members have access to the Clearinghouse.

Section 5. Procedure for Reinstatement of a Suspended Certificate or Reissuance of a Certificate after Revocation.

I. Upon reinstatement, staff shall ensure that:

- A. The suspension is no longer noted on the website; and
 - B. The reinstatement of the suspended certificate is noted in the NASDTEC Clearinghouse.
- II. Upon reissuance, the EPSB staff shall ensure the reissuance of a revoked certificate is noted in the NASDTEC Clearinghouse.

Section 6. Procedure for Probationary Conditions.

The EPSB has the authority to impose probationary or supervisory conditions upon an educator's certificate under KRS 161.120(1). Probationary or supervisory conditions may be imposed through an Agreed Order pursuant to KRS 161.120(8) or a Final Order pursuant to KRS 13B.120.

I. Compliance.

- A. The educator shall provide written proof of compliance with the probationary or supervisory conditions within the timeframe specified in the Agreed Order or Final Order.
- B. Proof of compliance shall be sent to staff by mail, fax or email.
- C. It is the educator's responsibility to ensure written proof of the condition has been received by staff.

II. Noncompliance.

- A. If the educator fails to provide written proof of compliance with the probationary or supervisory conditions within the timeframe specified in the Agreed Order or Final Order, staff shall send the educator a Ten-Day Letter (Letter). The Letter shall:
 - 1. Notify the educator that the educator has failed to comply with a probationary or supervisor condition(s);
 - 2. Restate the probationary or supervisory condition(s) that the educator has failed to comply with, in full;
 - 3. Inform the educator that the educator has ten (10) days from the date of the letter to submit written proof of compliance with the probationary or supervisory conditions to the EPSB or the educator's certificate will be sanctioned according to the terms of the Agreed Order or Final Order; and
 - 4. Provide a point of contact.
- B. If the educator provides written proof of compliance with the probationary or supervisory conditions after receiving the Letter, the educator's certificate will not be sanctioned.

- C. If the educator fails to provide written proof of compliance with the probationary or supervisory conditions after the ten (10) days has lapsed, the EPSB staff shall sanction the educator's certificate in accordance with the terms of the Agreed Order or Final Order and notify the educator of the sanction.

III. Drug Testing.

- A. If an educator has been ordered, through an Agreed Order or a Final Order, to submit to drug testing, staff shall send the educator a Notice of Drug Testing Letter (Drug Testing Letter). The Drug Testing Letter shall:
 - 1. Notify the educator that the educator is required to complete drug testing at an EPSB approved facility;
 - a. An EPSB approved facility must conduct specimen collection, analysis and reporting in accordance with federal guidance and state laws.
 - 2. Restate the drug testing condition in the Agreed Order or Final Order, in full;
 - 3. Inform the educator that the educator has 48 hours to submit a sample to an EPSB approved facility, and to sign a confidentiality waiver for the EPSB to receive the drug test results; and
 - 4. Provide a point of contact for receipt of the drug test results.
- B. If the educator fails to submit a sample to an EPSB approved facility within 48 hours, staff shall sanction the educator's certificate in accordance with the terms of the Agreed Order or Final Order and notify the educator of the sanction.

Section 7. Procedure for Motions to Reconsider, Modify or Reverse.

- I. The EPSB may reconsider, modify, or reverse its decision on any disciplinary matter upon a motion by one of the parties or on its own volition. KRS 161.120(9).
 - A. An educator or the educator's attorney may request that the Board reconsider, modify, or reverse its decision on any disciplinary matter by filing a motion with the Board.
 - 1. **Timing.** A motion may be filed at any time to be included in the Closed Session Review Docket or Addendum. *See Section 2 Complaints and Reports, V. Closed Session Review Docket.*
 - 2. **Evidence.** The motion may include any evidence that circumstances have changed since the disciplinary action was taken, any evidence that the educator has been rehabilitated or paid restitution for past actions, and any other relevant facts and circumstances. Evidence submitted may include but is not limited to sworn affidavits, court or medical records, and letters of support.