


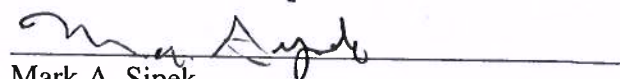
STATEMENT OF EMERGENCY  
101 KAR 1:365E.

(1) This emergency administrative regulation is necessary to be in compliance with Senate Bill 153, which significantly altered the merit system as set out in KRS Chapter 18A and goes into effect on June 29, 2023. Due to the significant alterations to the merit system resulting from Senate Bill 153, the Personnel Board has been required to create a new Appeal Form reflecting the alteration of state government employees' merit system rights and changes to the Personnel Board's jurisdiction. The Personnel Board Appeal Form is incorporated by reference in 101 KAR 1:365E and adoption of this emergency administrative regulation is necessary to permit the Personnel Board to issue the new Appeal Form in compliance with Senate Bill 153.

(2) This emergency administrative regulation is deemed to be an emergency pursuant to KRS 13B.190(1)(a)3. In order to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute or federal law, specifically, the June 29, 2023, effective date of Senate Bill 153.

(3) This emergency administrative regulation will be replaced by an ordinary administrative regulation. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

  
Andy Beshear,  
Governor

  
Mark A. Sipek  
Executive Director  
Personnel Board

1 GENERAL GOVERNMENT CABINET

2 Personnel Board

3 (Emergency Amendment)

4 101 KAR 1:365E. Appeal and hearing procedures.

5 RELATES TO: KRS Chapter 13B, 18A.075, 18A.0751, 18A.095, 344.030

6 STATUTORY AUTHORITY: KRS 13B.170, 18A.075, 18A.0751

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 13B.170 authorizes an agency to  
8 promulgate administrative regulations to carry out the provisions of KRS Chapter 13B and enact  
9 administrative hearing procedures. KRS 18A.075 provides that the Personnel Board shall  
10 promulgate comprehensive administrative regulations consistent with the provisions of KRS  
11 18A.005 to 18A.200. KRS 18A.0751 provides that the Personnel Board shall promulgate  
12 comprehensive administrative regulations providing for the procedures to be utilized by the board  
13 in the conduct of hearings. This administrative regulation establishes Personnel Board hearing  
14 procedures.

15 Section 1. Definitions.

16 (1) "Because of sex" or "on the basis of sex" is defined by KRS 344.030(8).

17 (2) "Qualified individual with a disability" is defined by KRS 344.030(1).

18 (3) "Reasonable accommodation" is defined by KRS 344.030(6).

19 (4) "Religion" is defined by KRS 344.030(7).

20 (5) "Undue hardship" is defined by KRS 344.030(9).

1 Section 2. An appeal of an action alleged to be based on discrimination shall be governed  
2 by the terms defined in Section 1 of this administrative regulation.

3 Section 3. Filing.

4 (1) An appeal or a document relating to an appeal shall be filed with the Personnel Board  
5 through the office of the executive director within the time period established in KRS 18A.095.

6 (2)

7 (a) An appeal, motion, request, objection, exception, response, witness list or other  
8 document may be filed by a party with the board by means of facsimile transmission or other  
9 electronic means including email.

10 (b) If a party transmits a document to the board by facsimile transmission or other  
11 electronic means, the party shall attempt to transmit the document to all parties by the same  
12 method.

13 (3) To be timely filed, a document transmitted by facsimile or other electronic means shall  
14 be received by the board within the statutory or regulatory times established for filing and be  
15 received by the board no later than midnight on the last day for filing.

16 (4) The submission of an original copy of a facsimile transmission or email shall not be  
17 required, unless requested.

18 (5) A state employee shall not use state time, equipment, materials, or personnel in  
19 pursuing an appeal without the advance written permission of an appointing authority in their  
20 employing Agency.

21 (6) An appeal shall be heard in Franklin County, Kentucky.

22 Section 4. Designation of Hearing Officer.

1 (1) Unless otherwise directed by the board, the executive director shall assign a hearing  
2 officer or officers to an appeal.

3 (2) If more than one (1) hearing officer is assigned, one (1) shall be designated as chief  
4 hearing officer.

5 (3) If an appeal will be heard by the full board, the board shall designate a chief hearing  
6 officer.

7 Section 5. Continuances.

8 (1) A continuance of a scheduled hearing may be granted by a hearing officer for good  
9 cause.

10 (2) The Hearing Officer has the discretion to require that a request for continuance shall:

11 (a) Be written;

12 (b) State the reason for the request;

13 (c) Include proposed dates for rescheduling the hearing; and

14 (d) Be filed with the board.

15 (3) The Hearing Officer has the discretion to require that any objection to a request for  
16 continuance shall:

17 (a) Be written;

18 (b) State the reason for the objection to the request for continuance; and

19 (c) Be filed with the board.

20 (4)

21 (a) At the direction of the hearing officer, the executive director may execute and transmit

22 to all parties an interim order either granting or denying the request for continuance.

1 (b) If the request for continuance is granted, the interim order shall state the date on which  
2 the hearing has been rescheduled or that the hearing has been continued generally.

3 Section 6. Prehearing Procedures.

4 (1) A motion, request, or filing shall be in writing, filed with the board through the office of  
5 the executive director, and served on all parties.

6 (2) Unless an interim order provides for review by the board prior to the conclusion of a  
7 hearing, which shall only be granted at the sole discretion of the Hearing Officer, the board shall  
8 review an interim order when it considers the recommended order, record, and exceptions.

9 (3) If an employee retains counsel subsequent to filing an appeal, that attorney may be  
10 required to file a written entry of appearance.

11 (4) An employee shall notify all parties and the board in writing of a change of address.

12 (5)

13 (a) A Kentucky Personnel Board subpoena form shall be available in the office of the  
14 executive director and shall be issued by the executive director.

15 (b) Preparation and service of the subpoena and compliance with the subpoena shall be the  
16 responsibility of the party requesting the subpoena.

17 (6) A deposition may be taken in an extraordinary circumstance and upon authorization by  
18 the hearing officer. A request to take a deposition shall be filed at least fifteen (15) calendar days  
19 prior to the scheduled hearing. An objection to the request shall be filed prior to the scheduled  
20 hearing.

21 (7) At the discretion of the hearing officer, two (2) or more appeals that involve the same or  
22 similar facts may be consolidated. Upon motion of a party, or upon the hearing officer's own  
23 motion, the hearing officer may join other parties as necessary to appropriately consider the matter.

1 (8) An agreed settlement shall be submitted in writing for review by the Personnel Cabinet  
2 Secretary and final action by the board.

3 Section 7. Conduct of Hearing.

4 (1) Unless the appeal is heard by the full board, the hearing officer assigned shall hear the  
5 appeal.

6 (2) A party shall provide at least four (4) copies of an exhibit that is to be introduced as  
7 evidence. The parties may exchange documents through appropriate electronic means, including  
8 email. The hearing officer shall have the discretion to appropriately fashion the evidentiary record  
9 at all times.

10 Section 8. Board Review and Action.

11 (1) A response to a written exception to a recommended order may be filed by a party  
12 within fifteen (15) calendar days after the date the written exception is filed with the board. A  
13 response shall be:

14 (a) In writing; and

15 (b) Served on all parties.

16 (2) At the request of a party or on its own motion, the board may permit oral arguments  
17 before the full board. A request for oral argument shall be:

18 (a) In writing; and

19 (b) Filed with the board within fifteen (15) days of issuance of a recommended order.

20 (3) A final order shall be prepared, executed, and entered at the direction of the board by  
21 the secretary to the board.

22 Section 9. Incorporation by Reference.

23 (1) The following forms are incorporated by reference:

1 (a) "Kentucky Personnel Board Appeal Form (6-29-2023) [~~(1-2018)~~] "; and

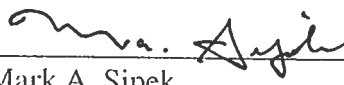
2 (b) "Kentucky Personnel Board Subpoena Form (2-90.)"

3 (2) These forms may be inspected, copied, or obtained at the office of the Personnel Board,  
4 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m.  
5 to 4:30 p.m. and the website of the Personnel Board, [personnelboard.ky.gov](http://personnelboard.ky.gov).

6

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Approved:

  
\_\_\_\_\_  
Mark A. Sipek,  
Executive Director, Personnel Board

7-11-2023  
Date

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on August 21, 2023, at 9:30 a.m. Eastern Time at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person, Stafford Easterling General Counsel, Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 695-5799, email [stafford.easterling@ky.gov](mailto:stafford.easterling@ky.gov).



## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 101 KAR 1:365E.

Contact Person: Stafford Easterling Phone: 502 564-7830 Email: [stafford.easterling@ky.gov](mailto:stafford.easterling@ky.gov)

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation governs the Personnel Board's appeal and hearing procedures.

(b) The necessity of this administrative regulation: This regulation is necessary in order to provide more granular detail as to the Personnel Board's procedures and guidelines as to how the Board will process appeals and conduct hearings.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.075, 18A.0751, and KRS 13B.170 mandate that the Board promulgate administrative regulations that detail the procedures and guidelines that must be used by the Board when conducting hearings and processing appeals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will continue to enable the Board to ensure the effective administration of the merit system in addition to assisting the Board in meeting its statutory requirements to establish appeal and hearing procedures.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The language of the administrative regulation itself will not change. This amendment merely effectuates alterations to the Personnel Board Appeal form already incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: The Personnel Board's Appeal Form, which is incorporated by reference, need to be modernized.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 18A.075, 18A.0751, and KRS 13B.170 mandate that the Board promulgate regulations that detail the procedures and guidelines that must be used by the Board when conducting hearings and processing appeals. The updating of the form does not change the content of this regulation and the amendment of the form attached by reference conforms with the Board's mandate to effectively administer state government's merit system, as provided by KRS Chapter 18A.

(d) How the amendment will assist in the effective administration of the statutes; Updating the Personnel Board's Appeal form will allow the Board to capture more information about the nature of an appeal before an initial pre-hearing conference, which is a more efficient use of the Board's extremely limited resources, in addition to making it easier for those utilizing the Board's Appeal form to submit information relevant to their appeals, which should permit all participants in Board appeals to more effectively resolve appeal through a more transparent streamlined process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects all state government agencies and all individuals with rights secured by KRS Chapter 18A, including, primarily, current state employees.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No entity identified in the Board's response will be required to undertake any significant new actions in order to comply with the amendment. Such entities will merely be required to handle and distribute the new amended Personnel Board Appeal form in the exact same manner that they handled and distributed the Board's old, unamended Appeal form.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be minimal additional cost to the entities to comply with this regulation. The only foreseeable cost would be incurred in printing the new form to replace the old form to the extent that distribution of the form is not done electronically.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): In addition to the universal benefits conveyed by adopting more modern procedures and ensuring more uniformity in the appeal process and hearing procedures, by amending the Board's Appeal form to capture more information relevant to each appeal, all participants in Board appeals should benefit through a more transparent streamlined process.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Minimal printing costs up front to replace the old Board Appeal form with the new form.

(b) On a continuing basis: After the initial expense, there will be no ongoing cost to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Given the minimal costs involved, there is no need for a source of funding to implement and enforce this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will not be an increase in fees and there is no necessity to secure a source of funding in order to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any fees nor will any entity endure increased fees, directly or indirectly.

(9) TIERING: Is tiering applied? Explain why or why not. No. This regulation, as amended assures hearings are held equally and appeals processed uniformly.

## FISCAL NOTE

Regulation No. 101 KAR 1:365E.

Contact Person: Stafford Easterling Phone: 502 564-7830 Email: stafford.easterling@ky.gov

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This regulation affects all state government agencies and all individuals with rights secured by KRS Chapter 18A, including, primarily, current state employees.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.075, KRS 18A.0751, 18A.005 to 18A.200, and KRS 13B.170.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No effect on expenditures and revenues to any state or local government agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated.

(c) How much will it cost to administer this program for the first year? The minimal costs incurred to distribute new Board Appeal forms are so insignificant that the Board cannot provide detailed estimated costs to administer the amendments to this regulation, especially if participating state agencies chose to distribute the amended Personnel Board forms electronically.

(d) How much will it cost to administer this program for subsequent years? Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. There are no estimated costs for subsequent years to administer the amendments to this regulation.

Revenues (+/-): Zero

Expenditures (+/-): Zero

Other Explanation: There should be no increase or decrease in the cost to administer this administrative regulation.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? Zero

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? Zero

(c) How much will it cost the regulated entities for the first year? Minimal.

(d) How much will it cost the regulated entities for subsequent years? Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-): Zero

Expenditures (+/-): Zero

Other Explanation: There should be no increase or decrease in the cost for the regulated entities caused by this administrative regulation.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)].*

This administrative regulation will not have a major economic impact.

#### SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The "Personnel Board Appeal Form," Form #18, is the 2-page appeal form that appellants to the Personnel Board are required to file in order to initiate a Personnel Board appeal. KRS 18A.095 requires appellants to complete an appeal form prescribed by the Personnel Board.

#### SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

The "Personnel Board Appeal Form," Form #18, is the 2-page appeal form that appellants to the Personnel Board are required to file in order to initiate a Personnel Board appeal. The Personnel Board was required to create a new appeal form as a result of changes to KRS Chapter 18A contained in Senate Bill 153, including changing the information an appellant is required to provide upon initially filing a Personnel Board appeal. The appeal form in effect prior to the passage of Senate Bill 153 is now obsolete and will be replaced with the new appeal form. Changes to the appeal form include requiring the submission of a personal email address, requiring additional detail regarding the details of claim(s) being advanced in the appeal, and modification of the type of claim(s) an appellant is allowed to pursue at the Personnel Board.

#### DOCUMENTARY EVIDENCE

A copy of Senate Bill 153, which mandated changes to KRS Chapter 18A that go into effect on June 29, 2023, resulting in the need to create a new Personnel Board appeal form, is attached to this request for emergency amendment as the Personnel Board's explanation as to why emergency amendment is necessary.

1 AN ACT relating to state government.

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

3 → Section 1. KRS 18A.005 is amended to read as follows:

4 As used in this chapter, unless the context indicates otherwise:

- 5 (1) "Appointing authority" means the agency head or any person whom he or she has  
6 authorized by law to designate to act on behalf of the agency with respect to  
7 employee appointments, position establishments, payroll documents, register  
8 requests, waiver requests, requests for certification, or other position actions. Such  
9 designation shall be in writing and signed by both the agency head and his or her  
10 designee. Prior to the exercise of appointing authority, such designation shall be  
11 filed with the secretary;
- 12 (2) "Base salary or wages" means the compensation to which an employee is entitled  
13 under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and  
14 18A.110. Base salary or wages shall be adjusted as provided under the provisions of  
15 KRS 18A.355 and 48.130;
- 16 (3) "Board" means the Personnel Board created by KRS 18A.045;
- 17 (4) "Career employee" means~~shall mean~~ a state employee with sixteen (16) or more  
18 years of permanent full-time state service, or the part-time employment equivalent  
19 of at least sixteen (16) years of full-time state service. The service may have been in  
20 the classified service under this chapter, the unclassified service in the executive  
21 branch of state government, or a combination thereof. At least five (5) years of the  
22 combined service shall have been in the classified service under this chapter;
- 23 (5) "Certification" means the referral of the name of one (1) or more qualified  
24 prospective employees by the secretary on request of an appointing officer for  
25 consideration in filling a position in the classified service;
- 26 (6) "Class" means a group of positions sufficiently similar as to duties performed,  
27 scope of discretion and responsibility, minimum requirements of training,

- 1 experience, or skill, and such other characteristics that the same title, the same tests  
2 of fitness, and the same schedule of compensation have been or may be applied to  
3 each position in the group;
- 4 (7) "Classified employee" means an employee appointed to a position in the classified  
5 service under this chapter whose appointment and~~[-continued]~~ employment are  
6 subject to the classified service provisions of this chapter and the administrative  
7 regulations promulgated under this chapter;
- 8 (8) "Classified position" means a position in the executive branch of state government  
9 that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115,  
10 KRS Chapter 151B, or any other provision of law;
- 11 (9) "Classified service" includes all the employment subject to the terms of this chapter  
12 except for those positions expressly cited in KRS 18A.115; a "classified position" is  
13 a position in the classified service;
- 14 (10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS  
15 18A.015;
- 16 (11) "Demotion" means a change in the rank of an employee from a position in one (1)  
17 class to a position in another class having a lower minimum salary range and less  
18 discretion or responsibility;
- 19 (12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the  
20 context indicates otherwise;
- 21 (13) "Eligible" refers to a person who has made a passing score on any examination  
22 required under KRS 18A.010 to 18A.200 or who has qualified to be placed on a  
23 register;
- 24 (14) "Employee" means a person regularly appointed to a position in the state service for  
25 which he or she is compensated on a full-time, part-time, or interim basis;
- 26 (15) "Federally funded time-limited employee" means an employee in the unclassified  
27 service, appointed to a position that is funded one hundred percent (100%) by a



1 federal grant or grants. An employee appointed to a federally funded time-limited  
2 position shall be required to meet the minimum requirements for the classification  
3 in which he or she is hired and, subject to the provisions of KRS 18A.113, shall  
4 serve at the pleasure of the appointing authority during a period of time that shall  
5 not exceed the life of the federal grant that funds the position. A federally funded  
6 time-limited employee who has been aggrieved by notice of disciplinary action or  
7 termination, other than an action based on expiration of the federal grant funding,  
8 may petition the appointing authority of the agency for the opportunity to be heard  
9 by the appointing authority or his or her designee prior to the effective date of the  
10 disciplinary action or termination. The decision of the appointing authority shall be  
11 final except as provided by KRS 18A.095(14) and 18A.140. A federally funded  
12 time-limited employee shall not have the right of appeal to the Personnel Board  
13 except as provided by KRS 18A.095(14) and 18A.140;

14 (16) "Federally funded position" means a full-time or a part-time position in which the  
15 unclassified employee is eligible for benefits at the same level as a classified  
16 employee in a permanent position;

17 (17) "Full-time employee" means an employee in a full-time position;

18 (18) "Full-time position" means a position, other than an interim position, requiring an  
19 employee to work at least thirty-seven and one-half (37.5) hours in a work week,  
20 except for the following:

21 (a) Positions in the state parks, where the work assigned is dependent upon  
22 fluctuations in tourism, may be assigned work hours from twenty-five (25)  
23 hours per week during the off seasons and remain in full-time positions; and

24 (b) Positions in health care facilities, which regularly involve three (3)  
25 consecutive days of twelve (12) hour shifts to cover weekends, shall be  
26 considered full-time;

27 (19) "Initial probation" means the period of service following initial appointment to any

- 1 position under KRS 18A.010 to 18A.200 which requires special observation and  
2 evaluation of an employee's work and which must be passed successfully before  
3 status may be conferred as provided in KRS 18A.110 and by the provisions of this  
4 chapter. If the appointee is granted leave in excess of twenty (20) consecutive work  
5 days during this period, his or her initial probation shall be extended for the same  
6 length of time as the granted leave to cover such absence;
- 7 (20) "Interim employee" means an unclassified employee without status who has been  
8 appointed to an interim position that shall be less than nine (9) months duration;
- 9 (21) "Interim position" means a position established to address a one-time or recurring  
10 need of less than nine (9) months duration and exempt from the classified service  
11 under KRS 18A.115;
- 12 (22) "Part-time employee" means an employee in a part-time position;
- 13 (23) "Part-time position" means a position, other than an interim position, requiring an  
14 employee to work less than one hundred (100) hours per month;
- 15 (24) ~~["Penalization" means demotion, dismissal, suspension, fines, and other disciplinary  
16 actions; involuntary transfers; salary adjustments; any action that increases or  
17 diminishes the level, rank, discretion, or responsibility of an employee without  
18 proper cause or authority, including a reclassification or reallocation to a lower  
19 grade or rate of pay; and the abridgment or denial of other rights granted to state  
20 employees;~~
- 21 ~~(25)~~ "Position" means an office or employment in an agency (whether part-time, full-  
22 time, or interim, occupied, or vacant) involving duties requiring the services of one  
23 (1) person;
- 24 ~~(25)~~~~(26)~~ "Promotion" means a change of rank of an employee from a position in one  
25 (1) class to a position in another class having a higher minimum salary or carrying a  
26 greater scope of discretion or responsibility;
- 27 ~~(26)~~~~(27)~~ "Promotional probation" means the period of service, consistent with the

1 length of the initial probationary period, following the promotion of an employee  
2 with status which must be successfully completed in order for the employee to  
3 retain the position to which he or she has been promoted. If the employee is granted  
4 leave in excess of twenty (20) consecutive work days during this period, his or her  
5 promotional probation shall be extended for the same length of time as the granted  
6 leave to cover such absence;

7 ~~(27)~~~~(28)~~ "Qualifying" means the selection method type which results when the  
8 knowledge, skills, and abilities necessary for a job classification cannot be  
9 accurately measured by written examination;

10 ~~(28)~~~~(29)~~ "Reallocation" means the correction of the classification of an existing  
11 position by placement of the position into the classification that is appropriate for  
12 the duties the employee has been and shall continue to perform;

13 ~~(29)~~~~(30)~~ "Reclassification" shall mean the change in the classification of an employee  
14 when a material and permanent change in the duties or responsibilities of that  
15 employee has been assigned in writing by the appointing authority;

16 ~~(30)~~~~(31)~~ "Reemployment" shall mean the rehiring of an employee with status who has  
17 been laid-off;

18 ~~(31)~~~~(32)~~ "Reemployment register" means the separate list of names of persons who  
19 have been separated from state service by reason of layoff~~[lay-off]~~. Reemployment  
20 registers shall be used as provided by the provisions of KRS 18A.110, 18A.130,  
21 and 18A.135;

22 ~~(32)~~~~(33)~~ "Register" means any official list of eligibles for a particular class and, except  
23 as provided in this chapter, placed in rank order according to the examination scores  
24 maintained for use in making original appointments or promotions to positions in  
25 the classified service;

26 ~~(33)~~~~(34)~~ "Reinstatement" means the privilege of restoration of an employee who has  
27 resigned in good standing at the option of the appointing authority, or who has been

1 ordered reinstated by the board or a court to a position in his former class, or to a  
2 position of like status and pay;

3 ~~(34)~~~~(35)~~ "Reversion" means either the returning of a status employee to his or her last  
4 position held in the classified service, if vacant, or the returning of a status  
5 employee to a vacant position in the same or similar job classification as his or her  
6 last position held in the classified service. Reversion occurs after a career employee  
7 is terminated other than for cause from the unclassified service or after a status  
8 employee fails to successfully complete promotional probation. Reversion after  
9 unsuccessful completion of promotional probation, or in the case of a career  
10 employee after termination from the unclassified service, may only be appealed to  
11 the Personnel Board under KRS 18A.095(12);

12 ~~(35)~~~~(36)~~ "Seniority" means the total number of months of state service;

13 ~~(36)~~~~(37)~~ "Status" means the acquisition of tenure with all rights and privileges granted  
14 by the provisions of this chapter after satisfactory completion of the initial  
15 probationary period by an employee in the classified service; and

16 ~~(37)~~~~(38)~~ "Transfer" means a movement of any employee from one (1) position to  
17 another of the same grade having the same salary ranges, the same level of  
18 responsibility within the classified service, and the same salary received  
19 immediately prior to transfer.

20 ➔ Section 2. KRS 18A.030 is amended to read as follows:

- 21 (1) The secretary shall be the executive and administrative head of the cabinet and shall  
22 supervise and control all examinations and work of the cabinet. He or she shall  
23 advise the board on matters pertaining to the classified service of this state. Within  
24 the limitations of the budget, the secretary shall appoint and supervise the staff  
25 needed in the cabinet to carry out the purposes of KRS 18A.005 to 18A.200 except  
26 employees of the board who shall be appointed as provided in KRS 18A.090.
- 27 (2) Subject to the provisions of this chapter and KRS Chapter 13A, the secretary shall,

- 1 with the aid of his or her staff:
- 2 (a) Attend all meetings of the board;
- 3 (b) As provided by this chapter, promulgate comprehensive administrative  
4 regulations consistent with the provisions of KRS Chapters 13A and 18A, and  
5 with federal standards for the administration of a personnel system in the  
6 agencies of the state government receiving federal grants;
- 7 (c) Establish general procedures for personnel recruitment, for certification, and  
8 for improving the efficiency of employed personnel;
- 9 (d) Appoint the examiners and technicians necessary for the conduct of the  
10 personnel program, whether on a permanent or temporary basis;
- 11 (e) Prepare and maintain a record of all employees, showing for each employee  
12 his or her name, address, title of position held, rate of compensation, changes  
13 in status, compensation, or title, transfer, and to make the data and the class  
14 specifications for all positions available to the press and public;
- 15 (f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and  
16 the administrative regulations adopted thereunder, examinations, eligible lists,  
17 and ratings of candidates for appointment;
- 18 (g) Make certification for appointment or promotion within the classified service,  
19 in accordance with the provisions of KRS 18A.005 to 18A.200;
- 20 (h) Make investigations concerning all matters touching the enforcement and  
21 effect of the provisions of KRS 18A.005 to 18A.200 and administrative  
22 regulations prescribed thereunder;
- 23 (i) Prepare, in cooperation with appointing authorities and others, programs for  
24 employee training, safety, morale, work motivation, health, counseling, and  
25 welfare, and exercise leadership in the development of effective personnel  
26 administration within the several departments of the Commonwealth, and  
27 make available the facilities of the department to this end;

- 1 (j) Provide personnel services to unclassified employees in agreement with the  
2 agencies involved not otherwise provided for in KRS 18A.005 to 18A.200;
- 3 (k) Present, in accordance with the provisions of KRS Chapter 48, budget  
4 requests for the support of the personnel system created by KRS 18A.005 to  
5 18A.200, excluding the board, which shall present its own budget estimates;
- 6 (l) Make a report and submit the same to the board, the Legislative Research  
7 Commission, and the Governor not later than October first of each year;
- 8 (m) Propose selection method changes for any classification to the Personnel  
9 Board with documentation justifying the need for the selection method  
10 change. The Personnel Board shall, at its next regularly scheduled monthly  
11 meeting, review and comment on any proposed selection method change. A  
12 classification shall not have its selection method changed without review and  
13 comment by the Personnel Board;
- 14 **(n) Perform a classification and compensation study at least once every five (5)**  
15 **years; and**
- 16 **(o)**~~(n)~~ Discharge the other duties imposed upon him **or her** by KRS 18A.005 to  
17 18A.200.
- 18 (3) The secretary on behalf of the cabinet may join or subscribe to any association or  
19 service having as its purpose the interchange of information relating to the  
20 improvement of the public service and especially improvement of personnel  
21 administration.
- 22 (4) The secretary shall keep records relative to employee turnover and report to the  
23 board, the Governor, and the Legislative Research Commission quarterly. The  
24 report shall reflect employee turnover rates by cabinet, department, bureau,  
25 division, and section. If any cabinet, department, bureau, division, or section has a  
26 turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the  
27 secretary shall conduct an investigation into the reasons for the turnover and report

- 1 the findings to the board, the Governor, and the Legislative Research Commission.
- 2 (5) The secretary shall provide to each new state employee and to each existing state  
3 employee, classified or otherwise, on an annual basis an informational pamphlet  
4 about human immunodeficiency virus infection and acquired immunodeficiency  
5 syndrome. The pamphlet shall be approved by the Cabinet for Health and Family  
6 Services and shall contain information about the nature and extent of these diseases,  
7 methods of transmission, preventive measures, and referral services.
- 8 (6) The secretary shall establish and maintain a list of all filled positions exempted  
9 from classified service under KRS 18A.115(1) (e), (g), (h), (i), (k), (t), (w), (aa),  
10 and (ab). The list shall include the following information for each filled position:
- 11 (a) The name of the agency where the position is assigned;  
12 (b) The statutory authority for the unclassified status of the position;  
13 (c) The title of the position;  
14 (d) The pay grade of the position;  
15 (e) The annual salary of the employee in the position; and  
16 (f) The work county of the employee in the position.
- 17 (7) Beginning September 1, 2010, and every six (6) months thereafter, the secretary  
18 shall provide the Governor and the Legislative Research Commission with a copy  
19 of the list described in subsection (6) of this section, and shall indicate on the list  
20 any position that has been added to the list since the last submission.
- 21 (8) The secretary shall perform organizational analysis and review.
- 22 → Section 3. KRS 18A.032 is amended to read as follows:
- 23 (1) Except as provided by the provisions of this chapter, the secretary may refuse to  
24 examine an applicant; or, after examination, may disqualify an applicant, remove  
25 his or her name from a register, refuse to certify any eligible on a register, or may  
26 consult with the appointing authority in taking steps to remove the~~[such]~~ person  
27 already appointed if:

- 1 (a) It is found that he or she does not meet any one (1) of the preliminary  
2 requirements established for the examination for the class of position;
- 3 (b) He or she is unable to perform the duties of the class;
- 4 (c) He or she has made a false statement of material fact in his or her application;
- 5 (d) He or she has used or attempted to use political pressure or bribery to secure  
6 an advantage in the examination;
- 7 (e) He or she has directly or indirectly obtained information regarding the  
8 examination to which, as an applicant, he or she was not entitled;
- 9 (f) He or she has failed to submit his or her application correctly or within the  
10 prescribed time limits;
- 11 (g) He or she has taken part in the compilation, administration, or correction of  
12 the examination for which he or she is an applicant;
- 13 (h) He or she has previously been dismissed from a position in the state service  
14 for cause or has resigned while charges for dismissal for cause of which he or  
15 she had knowledge were pending;
- 16 (i) He or she has been convicted of a felony within the preceding five (5) years  
17 and his or her civil rights have not been restored or he or she has not been  
18 pardoned by the Governor;
- 19 (j) He or she has been convicted of a job related misdemeanor, except that  
20 convictions for violations of traffic regulations shall not constitute grounds for  
21 disqualification; or
- 22 (k) He or she has otherwise willfully violated the provisions of this chapter.
- 23 (2) An eligible may be removed from a register:
- 24 (a) If the eligible cannot be located by postal authorities at the last address  
25 provided by the eligible;
- 26 (b) If the eligible responds in writing that he or she no longer desires  
27 consideration for position in that class;



- 1 (c) If the eligible declines an offer of probationary appointment to the class for  
 2 which the register was established;
- 3 (d) If it is shown that the eligible is not qualified or is unsuitable for appointment  
 4 to the class for which the register is established;
- 5 (e) If the eligible fails to reply within a period of ten (10) calendar days of the  
 6 receipt of the written request of the appointing authority for an interview, or  
 7 fails to appear for an interview which he or she has scheduled with the  
 8 appointing authority without good cause;
- 9 (f) If the eligible accepts an appointment and fails to present himself or herself  
 10 for duty at the time and place agreed to without giving reasons for the delay  
 11 satisfactory to the appointing authority;[-or]
- 12 (g) If the eligible states in writing that he or she is not available for appointment  
 13 or does not wish to be considered for appointment; or
- 14 (h) If the eligible demonstrates erratic, unsafe, or threatening behavior.
- 15 (3) When an eligible notifies the cabinet in writing that he or she is unavailable for  
 16 employment or employment consideration, the cabinet may remove the name of  
 17 that eligible from the appropriate register without further notification to the person.
- 18 (4) When the cabinet is notified in writing by an appointing authority that an eligible  
 19 has accepted a bona fide offer of probationary appointment to any position,  
 20 effective on a specified date, his or her name may be removed from the register for  
 21 all classes for which the maximum salary is the same or less than that of the class to  
 22 which he or she has been appointed.
- 23 →Section 4. KRS 18A.0551 is amended to read as follows:
- 24 (1) (a) Elections to the board shall be scheduled every four (4) years on or before  
 25 June 15. The Personnel Cabinet[board] shall provide written or electronic  
 26 notification of the date of the election to all classified employees on or before  
 27 April 1; and

- 1 (b) Upon receipt of the notification provided for by paragraph (a) of this  
 2 subsection, a classified~~[an]~~ employee wishing to serve on the board shall  
 3 notify the board, in writing or electronically, no later than May 15. This  
 4 notification~~[shall be notarized and]~~ shall include the candidate's name,  
 5 address, unique personal identification number, job classification,~~[and]~~ length  
 6 of state employment, and~~[. It shall also include the]~~ name~~[and address]~~ of his  
 7 or her current employer.
- 8 (2) ~~[On the last working day of April,]~~The cabinet shall determine which employees  
 9 are eligible to vote in the Personnel Board election as of the last calendar day in  
 10 April~~[certify a payroll listing to the board that is current on such day and that~~  
 11 ~~contains the name, unique personal identification number, and home address of~~  
 12 ~~every classified employee].~~
- 13 (3) At least ten (10) working days prior to the election provided for in subsection (1) of  
 14 this section, the cabinet~~[board]~~ shall notify~~[mail to]~~ each classified employee  
 15 identified in subsection (2) of this section of the upcoming election and include in  
 16 the notification a ballot and instructions for voting~~[whose name appeared on the~~  
 17 ~~payroll listing certified by the cabinet at his home address:~~
- 18 (a) ~~A list of candidates for election to the board;~~  
 19 (b) ~~Instructions for voting;~~  
 20 (c) ~~A ballot listing the names of all candidates for election to the board; and~~  
 21 (d) ~~An envelope for returning the ballot should the classified employee wish to~~  
 22 ~~return the ballot by first class mail].~~
- 23 (4) Upon receipt of the~~[his]~~ ballot, a classified employee wishing to participate in the  
 24 election provided for in subsection (1) of this section shall:
- 25 (a) Vote for no more than two (2) candidates on the ballot, following the  
 26 cabinet's instructions for voting; and
- 27 (b) Submit~~[Print his or her unique personal identification number on the ballot in~~

- 1           the space provided on the ballot; and
- 2           ~~(e) — Deliver~~ the ballot ~~[to the board]~~ by *the* ~~[any]~~ means and ~~[, including first-class~~
- 3           ~~mail, facsimile, scanned e-mail, or hand delivery. Ballots shall arrive at the~~
- 4           ~~board's principal address no later than the date of the election or be~~
- 5           ~~postmarked on or before the] date~~ specified by the cabinet ~~[of the election].~~
- 6       (5) The cabinet ~~[board]~~ shall:
- 7           (a) ~~[Select an impartial third party to ]~~ Receive, validate, and tabulate all returned
- 8           votes ~~[ballots as provided by this subsection and subsection (6) of this section];~~
- 9           and
- 10          (b) Transmit the results to the board ~~[Provide the impartial third party with a~~
- 11          ~~computer-generated list of the unique personal identification numbers of~~
- 12          ~~eligible voters in numerical order].~~
- 13       (6) ~~[The impartial third party selected by the board shall collect all ballots from the~~
- 14          ~~board and:~~
- 15          (a) ~~Set aside, untabulated, any envelope postmarked with, or ballot stamped as received~~
- 16          ~~at the board on, a date subsequent to the deadline provided for by this section;~~
- 17          (b) ~~Verify the unique personal identification number on the ballot by comparing the~~
- 18          ~~number to the computer-generated list of unique personal identification numbers of~~
- 19          ~~eligible voters provided by the cabinet;~~
- 20          (c) ~~Set aside, untabulated, any ballot containing a unique personal identification~~
- 21          ~~number that does not match the unique personal identification number appearing~~
- 22          ~~next to the name on the computer-generated list;~~
- 23          (d) ~~Tabulate the timely ballots;~~
- 24          (e) ~~Compare the total tabulated vote with the total number of eligible employees~~
- 25          ~~appearing on the computer-generated list provided by the cabinet;~~
- 26          (f) ~~Return the ballots; envelopes, including envelopes that have not been opened; and~~
- 27          ~~other election material to the board; and~~

1 (g) Certify to the board:

2 1. That the tabulation does not include two (2) or more ballots with the same unique  
3 personal identification number;

4 2. The total number of ballots received;

5 3. The total number of ballots not included in the tabulation, and the reason each such  
6 ballot was not included in the tabulation;

7 4. The total number of ballots included in the tabulation; and

8 5. The total vote for each candidate.

9 (7) For at least sixty (60) days after the completion of the tabulation provided for by  
10 subsection (5)[(6)] of this section, the [ballots, envelopes, and other] election  
11 materials [provided for by this section] shall be public record and open to  
12 inspection, *however any personally identifiable information, including* [but the]  
13 home addresses and unique personal identification numbers of the eligible  
14 employees and voters, shall be redacted prior to public inspection or disclosure.

15 (7)[(8)] The two (2) *eligible* candidates receiving the greatest number of votes shall be  
16 declared the successful candidates. In the event of a tie vote, the tie shall be broken  
17 by a coin toss in the presence of the candidates receiving the tie vote.

18 (8)[(9)] Successful candidates shall be notified by the board no later than ten (10)  
19 working days after the election. Successful candidates shall take office immediately  
20 upon notification.

21 (9)[(10)] State employees may use state materials or equipment, except for state-paid  
22 first-class postage, to vote in the election of classified employees to the board.  
23 Except for voting in accordance with this section, any activity related to the election  
24 of a classified employee to the board shall not be conducted during working hours.

25 (10) The secretary may promulgate administrative regulations pursuant to KRS  
26 Chapter 13A to implement the provisions of this section.

27 ➔ Section 5. KRS 18A.095 is amended to read as follows:

- 1 (1) A classified employee with status shall not be dismissed, demoted, suspended  
2 without pay, or involuntarily transferred~~[otherwise penalized]~~ except for cause.
- 3 (2) Prior to dismissal, a classified employee with status shall be notified in writing of  
4 the intent to dismiss him or her. The notice shall also state:
- 5 (a) The specific reasons for dismissal including:
- 6 1. The statutory~~;~~ ~~or~~ regulatory, or policy violation;
- 7 2. The specific action or activity on which the intent to dismiss is based;
- 8 3. The date~~;~~ ~~time;~~ and place of such action or activity; and
- 9 4. The names~~[name]~~ of the parties involved;
- 10 (b) That the employee has the right to appear personally, or with counsel if he or  
11 she has retained counsel, to reply to the appointing authority~~[head of the~~  
12 ~~cabinet or agency]~~ or his or her designee; and
- 13 (c) Whether the employee is placed on administrative leave by the appointing  
14 authority with pay upon receiving the intent to dismiss letter prior to the  
15 agency's final action.
- 16 (3) The Personnel Cabinet shall prescribe and distribute a pretermination form to be  
17 completed and forwarded by an employee who wishes to appear before the~~[head of~~  
18 ~~the cabinet or agency or his designee, to each]~~ appointing authority or his or her  
19 designee. The form shall be attached to every notice of intent to dismiss and shall  
20 contain written instructions explaining:
- 21 (a) The right granted an employee under the provisions of this section relating to  
22 pretermination hearings; and
- 23 (b) The time limits and procedures to be followed by all parties in pretermination  
24 hearings.
- 25 (4) No later than five (5) working days after receipt of the notice of intent to dismiss,  
26 excluding the day he or she receives the notice, the employee may request to  
27 appear, personally or with counsel if he or she has retained counsel, to reply to the

- 1        appointing authority~~[head of the cabinet or agency]~~ or his or her designee.
- 2        (5) Unless agreed to by the appointing authority or his or her designee and~~[waived~~  
3        ~~by]~~ the employee, the appearance shall be scheduled within six (6) working days  
4        after receipt of an employee's request to appear before the appointing  
5        authority~~[head of the cabinet or agency]~~ or his or her designee, excluding the day  
6        his or her request is received.
- 7        (6) No later than five (5) working days after the employee appears before the  
8        appointing authority~~[head of the cabinet or agency]~~ or his or her designee,  
9        excluding the day of the appearance, the cabinet head or agency or his or her  
10       designee shall:
- 11       (a) Determine whether to dismiss the employee or to~~[alter,]~~ modify~~[,]~~ or rescind  
12       the intent to dismiss; and
- 13       (b) Notify the employee in writing of the decision.
- 14       (7) If the appointing authority~~[cabinet or agency head]~~ or his or her designee  
15       determines that the employee shall be dismissed~~[or otherwise penalized]~~, the  
16       employee shall be notified in writing of:
- 17       (a) The effective date of his or her dismissal~~[or other penalization]~~;
- 18       (b) The specific reason for the dismissal~~[this action]~~, including:
- 19            1. The statutory~~, [or]~~ regulatory, or policy violation;
- 20            2. The specific action or activity on which the dismissal~~[or other~~  
21            ~~penalization]~~ is based;
- 22            3. The date~~[, time,]~~ and place of the action or activity; and
- 23            4. The names~~[name]~~ of the parties involved; and
- 24        (c) That he or she may appeal the dismissal~~[or other penalization]~~ to the board  
25        within thirty (30) calendar~~[sixty (60)]~~ days after receipt of this notification,  
26        excluding the day he or she receives notice.
- 27        (8) A classified employee with status who is demoted, suspended without pay, or

- 1        *involuntarily transferred*~~[otherwise penalized]~~ shall be notified in writing of:
- 2        (a) The demotion, suspension, or *involuntary transfer*~~[other penalization]~~;
- 3        (b) The effective date of the demotion, suspension, or *involuntary transfer*~~[other~~  
4        ~~penalization]~~;
- 5        (c) The specific reason for the *demotion, suspension, or involuntary*  
6        *transfer*~~[action]~~ including:
- 7            1. The statutory ~~or~~ regulatory, *or policy* violation;
- 8            2. The specific action or activity on which the demotion, suspension, or  
9            *involuntary transfer*~~[other penalization]~~ is based;
- 10          3. The date~~, time,~~ and place of the action or activity; and
- 11          4. The *names*~~[name]~~ of the parties involved; and
- 12        (d) That he or she has the right to appeal to the board within *thirty (30)*  
13        *calendar*~~[sixty (60)]~~ days, excluding the day that he or she received  
14        notification of the personnel action.
- 15        (9) Any unclassified employee who is dismissed, demoted, suspended *without pay*, or  
16        *involuntarily transferred*~~[otherwise penalized]~~ for cause may, within thirty (30)  
17        *calendar* days after the dismissal, demotion, suspension, or *involuntary*  
18        *transfer*~~[other form of penalization]~~, appeal to the board for review thereof.
- 19        (10) (a) An employee whose position is reallocated shall be notified in writing by the  
20        appointing authority of:
- 21            1. The reallocation *or reclassification*; and
- 22            2. *If the reallocation or reclassification is to a lower grade*, his *or her*  
23            right to request reconsideration by the secretary within ten (10) working  
24            days of receipt of the notice, excluding the day he *or she* receives  
25            notification.
- 26        (b) ~~He shall be provided with a form prescribed by the secretary on which to~~  
27        ~~request reconsideration.~~

1       ~~(e)}~~ The employee shall file a written request for reconsideration of the  
2       reallocation or reclassification to a lower grade~~[of his position]~~ with the  
3       secretary in a manner and form prescribed by the secretary and shall be given  
4       a reasonable opportunity to be heard~~[thereon]~~ by the secretary. The secretary  
5       shall make a determination within sixty (60) calendar days after the request  
6       has been filed by an employee. The secretary's determination shall be final  
7       and shall not be appealable to the Personnel Board~~[After reconsideration of~~  
8       ~~the request by the secretary, the employee may appeal to the board].~~

9       (11) (a) ~~[Any state employee, applicant for employment, or eligible on a register may~~  
10       ~~appeal to the board on the grounds that his right to inspect or copy records,~~  
11       ~~including preliminary and other supporting documentation, relating to him has~~  
12       ~~been denied, abridged, or impeded by a public agency. The board shall~~  
13       ~~conduct a hearing to determine whether the records related to the employee,~~  
14       ~~applicant, or eligible, and whether his right to inspect or copy these records~~  
15       ~~was denied, abridged, or impeded. If the board determines that the records~~  
16       ~~related to the employee and that the right to inspect or copy these records has~~  
17       ~~been denied, abridged, or impeded, the board shall order the public agency to~~  
18       ~~make them available for inspection and copying and shall charge the cost of~~  
19       ~~the hearing to the public agency. A state employee, an applicant for~~  
20       ~~employment, and an eligible on a register shall not have the right to inspect or~~  
21       ~~to copy any examination materials.~~

22       ~~(12)~~ Any applicant, classified employee, or federally funded time-limited employee  
23       may appeal to the board an action alleged to be based on discrimination due to  
24       race, color, religion, national origin, sex, disability, ~~[or]~~ age forty (40) and  
25       above, or any other category protected under state or federal civil rights  
26       laws. Nothing in this section shall be construed to preclude any applicant,  
27       classified employee, or unclassified employee from filing with the Kentucky



1 Commission on Human Rights a complaint alleging discrimination on the  
2 basis of race, color, religion, national origin, sex, disability, or age in  
3 accordance with KRS Chapter 344.

4 (b) Appeals alleging discrimination shall be filed within thirty (30) calendar  
5 days after the alleged discriminatory action occurred.

6 (12) (a) Any applicant for classified employment under KRS Chapter 18A who has  
7 been notified by the Personnel Cabinet that he or she did not meet the  
8 minimum qualifications for a position may request reconsideration from the  
9 secretary not more than ten (10) calendar days after the notification was  
10 sent. The secretary's review and determination of the reconsideration shall  
11 be completed within ten (10) calendar days from the receipt of the request  
12 for reconsideration. The secretary's determination shall be final and shall  
13 not be appealable to the Personnel Board.

14 (b) Any applicant for employment in a classified position under KRS Chapter  
15 18A may appeal the hiring agency's nonselection based on an alleged  
16 violation of appointment and promotion provisions contained in this chapter  
17 or administrative regulations promulgated under this chapter to the board.  
18 The appeal shall be filed not later than thirty (30) calendar days after the  
19 notice of nonselection was mailed or sent electronically.

20 (13) When an employee who qualifies for a position has his or her name removed  
21 from the register, the employee may petition the secretary for the opportunity to  
22 be heard by the secretary or his or her designee. The petition shall be delivered to  
23 the secretary in writing or electronically no later than ten (10) calendar days after  
24 the removal notification has been sent. The secretary's decision shall be final and  
25 not appealable to the Personnel Board~~[an eligible's name is removed from a~~  
26 ~~register, the secretary shall notify the eligible of his action and the reasons therefor,~~  
27 ~~together with his right of appeal. An eligible's name shall be restored to the register~~

1 upon presentation of reasons satisfactory to the secretary or in accordance with the  
2 decision of the board.

3 ~~(14) (a) Any employee, applicant for employment, or eligible on a register, who  
4 believes that he has been discriminated against, may appeal to the board.~~

5 ~~(b) Any applicant whose application for admission to an open competitive  
6 examination has been rejected shall be notified of this rejection and the  
7 reasons therefor and may appeal to the board for reconsideration of his  
8 qualifications and for admission to the examination. Applicants may be  
9 conditionally admitted to an examination by the secretary pending  
10 reconsideration by the board.~~

11 ~~(c) Any applicant who has taken an examination may appeal to the board for a  
12 review of his rating in any part of the examination to assure that uniform  
13 rating procedures have been applied equally and fairly.~~

14 ~~(d) An appeal to the board by applicants or eligibles under subsections (11) and  
15 (13) of this section and under this subsection shall be filed in writing with the  
16 executive director not later than thirty (30) calendar days after the notification  
17 of the action in question was mailed.~~

18 ~~(15) An evaluation may be appealed to the board if an employee has complied with the  
19 review procedure established in KRS 18A.110(7)(j)].~~

20 ~~(14)~~~~(16)~~ (a) Appeals to the board shall be in writing on an appeal form prescribed by  
21 the board. ~~[Appeal forms shall be available at the employee's place of work.]~~  
22 The Personnel **Board**~~[Cabinet]~~ shall be responsible for the distribution of  
23 these forms.

24 (b) The appeal form shall be attached to any notice~~[, or copy of any notice,]~~ of  
25 dismissal, demotion, suspension, or~~[fine,]~~ involuntary transfer~~[, or other  
26 penalization, reallocation, or notice of any other action an employee may  
27 appeal under the provisions of this section].~~ The appeal form shall instruct the

1 employee to state whether he or she is a classified or unclassified employee,  
2 his or her full name, his or her appointing authority, work station address and  
3 telephone number, home address and personal telephone number, personal  
4 email address, and, if he or she has retained counsel at the time he or she files  
5 an appeal, the name, address, and telephone number of his or her attorney.

6 (c) The form shall also instruct a classified employee to state the action he or she  
7 is appealing in a short, plain, concise statement of the facts. The form shall  
8 instruct an unclassified employee to make a short, plain, concise statement of  
9 the reason for the appeal and the cause given for his or her dismissal,  
10 demotion, suspension, or involuntary transfer.

11 (d) Any appeal form filed by a classified or unclassified employee shall identify  
12 the statute, administrative regulation, or policy that was allegedly violated.

13 (e) Upon receipt of the appeal by the board, the appointing authority and the  
14 Personnel Cabinet shall be notified and the board shall schedule a hearing.

15 ~~(15)~~~~(17)~~ All administrative hearings conducted by the board shall be conducted in  
16 accordance with KRS Chapter 13B.

17 ~~(16)~~~~(18)~~ (a) The board shall~~[may]~~ deny a hearing to an employee who has failed to  
18 file an appeal within the time prescribed by this section; and to an unclassified  
19 employee who has failed to state the reasons for the appeal and the cause for  
20 which he or she has been dismissed, demoted, suspended without pay, or  
21 involuntarily transferred. The board shall~~[may]~~ deny any appeal after a  
22 preliminary hearing if it lacks jurisdiction to grant relief. The board shall  
23 notify the employee of its denial in writing and shall inform the employee of  
24 his or her right to appeal the denial under the provisions of KRS 18A.100.

25 (b) Any investigation by the board of any matter related to an appeal filed by an  
26 employee shall be conducted only upon notice to the employee, the  
27 employee's counsel, and the appointing authority. All parties to the appeal

1 shall have access to information produced by the investigations and the  
2 information shall be presented at the hearing.

3 ~~(17)~~~~(19)~~ Each appeal shall be decided individually, unless otherwise agreed by the  
4 parties and the board. The board shall not:

5 (a) Employ class action procedures; or

6 (b) Conduct test representative cases.

7 ~~(18)~~~~(20)~~ Board members shall abstain from public comment about a pending or  
8 impending proceeding before the board. This shall not prohibit board members  
9 from making public statements in the course of their official duties or from  
10 explaining for public information the procedures of the board.

11 ~~(19)~~~~(21)~~ An appeal to the board may be heard by the full board or one (1) or more of  
12 the following: Its executive director, its general counsel, any nonelected member of  
13 the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

14 ~~(20)~~~~(22)~~ (a) If the board finds that the action complained of was taken by the  
15 appointing authority in violation of laws prohibiting favor for, or  
16 discrimination against, or bias with respect to, his or her political or religious  
17 opinions or affiliations or ethnic origin, or in violation of laws prohibiting  
18 discrimination because of such individual's sex or age or disability, the  
19 appointing authority shall immediately reinstate the employee to his or her  
20 former position or a position of like status and pay, without loss of pay for the  
21 period of time at issue~~[his penalization]~~, or otherwise make the employee  
22 whole unless the order is stayed by the board or the court on appeal.

23 (b) If the board finds that the action complained of was taken without just cause,  
24 the board shall order the immediate reinstatement of the employee to his or  
25 her former position or a position of like status and pay, without loss of pay for  
26 the period of time at issue~~[his penalization]~~, or otherwise make the employee  
27 whole unless the order is stayed by the board or the court on appeal.

1 (c) If the board finds that the action taken by the appointing authority was  
2 excessive or erroneous in view of all the surrounding circumstances, the board  
3 shall direct the appointing authority to~~[-alter,]~~ modify~~[,]~~ or rescind the~~[~~  
4 ~~disciplinary]~~ action *at issue*.

5 (d) In all other cases, the board shall direct the appointing authority to rescind the  
6 action taken or otherwise grant specific relief or dismiss the appeal.

7 ~~(21)~~~~(23)~~ If a final order of the board is appealed, a court ~~may~~~~[shall]~~ award reasonable  
8 attorney fees to an employee who prevails by a final adjudication on the merits as  
9 provided by KRS 453.260. This award shall not include attorney fees attributable to  
10 the hearing before the board.

11 ~~(22)~~~~(24)~~ When any employee is dismissed and not ordered reinstated after the appeal,  
12 the board in its discretion may direct that his *or her* name be placed on an  
13 appropriate reemployment list for employment in any similar position other than the  
14 one from which he *or she* had been removed.

15 ~~(23)~~~~(25)~~ After a final decision has been rendered by the board or court, an employee  
16 who prevails in his *or her* appeal ~~may~~~~[shall]~~ be credited with the amount of leave  
17 time used for time spent at his *or her* hearing before the board or court. Employees  
18 who had an insufficient amount of leave time shall be credited with leave time  
19 equal to the amount of time spent at their hearings before the board or court.

20 ~~(24)~~~~(26)~~ If the appointing authority appeals the final order of the board, unless the  
21 board rules otherwise, the reinstated employee shall remain in his *or her* former  
22 position, or a position of like status or pay, until the conclusion of the appeals  
23 process, at which time the appointing authority shall take action in accordance with  
24 the court order.

25 ~~(25)~~~~(27)~~ After a final decision in a contested case has been rendered by the last  
26 administrative or judicial body to which the case has been appealed, the board shall  
27 make the decision available to the public in electronic format on its ~~website~~~~[Web~~

1 site] and shall organize the decisions according to the statutory basis for which the  
2 appeal was based.

3 (26) Appeals concerning dismissals of classified employees with status shall take  
4 precedence for hearings before the board over all other appeals.

5 (27) Any classified or unclassified employee as defined in Section 1 of this Act who is  
6 not restored to a position pursuant to KRS 61.371 to 61.377, or who is dismissed  
7 without cause within one (1) year after reinstatement, may appeal to the  
8 Personnel Board. The appeal shall be filed in writing with the executive director  
9 of the board not later than thirty (30) days after the notification of the action in  
10 question has been mailed or sent electronically.

11 (28) If an individual received a notice that does not comply with subsection (7)(c),  
12 (8)(d), or (14)(b) of this section, or received no written or electronic notification  
13 of his or her dismissal, demotion, suspension, or involuntary transfer pursuant to  
14 subsection (7) or (8) of this section, he or she shall file his or her appeal to the  
15 board within one hundred eighty (180) days of:

16 (a) Receipt of the written notice, if he or she received a written notice that does  
17 not comply with subsection (7)(c), (8)(d), or (14)(b); or

18 (b) The alleged act, if he or she did not receive written or electronic notification  
19 of the alleged act in question.

20 (29) If a classified or unclassified employee refuses or fails to cooperate as a witness  
21 in an agency, Personnel Cabinet, or board investigation, hearing, proceeding, or  
22 inquiry, the employee may be subject to disciplinary action.

23 (30) Unless otherwise provided by this chapter, the board shall not have jurisdiction  
24 over any appeal except as authorized by this section

25 ~~For the purposes of subsections (2), (3), (4), (5), (6), and (7) of this section, the word~~  
26 ~~"agency" means any agency not assigned to a cabinet for organizational purposes.~~

27 ~~(29) Notwithstanding any other prescribed limitation of action, an employee that has~~

1        ~~been penalized, but has not received a written notice of his or her right to appeal as~~  
2        ~~provided in this section, shall file his or her appeal with the Personnel Board within~~  
3        ~~one (1) year from the date of the penalization or from the date that the employee~~  
4        ~~reasonably should have known of the penalization].~~

5        ➔ Section 6.    KRS 18A.110 (Effective April 1, 2023) is amended to read as  
6 follows:

7        (1) The secretary shall promulgate comprehensive administrative regulations for the  
8        classified service governing:

9            (a) Applications and examinations;

10          (b) Certification and selection of eligibles;

11          (c) Classification and compensation plans;

12          (d) Incentive programs;

13          (e) Layoffs~~[Lay-offs]~~;

14          (f) Registers;

15          (g) Types of appointments;

16          (h) Attendance; hours of work; compensatory time; annual, court, military, sick,  
17          voting, living organ donor, and special leaves of absence, provided that the  
18          secretary shall not promulgate administrative regulations that would reduce  
19          the rate at which employees may accumulate leave time below the rate  
20          effective on December 10, 1985; and

21          (i) Employee evaluations.

22        (2) The secretary shall promulgate comprehensive administrative regulations for the  
23        unclassified service.

24        (3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate  
25        administrative regulations that would reduce an employee's salary; and

26        (b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed  
27        administrative regulation providing for an initial probationary period in excess

- 1 of six (6) months to the board for its approval.
- 2 (4) The secretary may promulgate administrative regulations to implement state  
3 government's affirmative action plan under KRS 18A.138.
- 4 (5) (a) The administrative regulations shall comply with the provisions of this  
5 chapter and KRS Chapter 13A, and shall have the force and effect of law after  
6 compliance with the provisions of KRS Chapters 13A and 18A and the  
7 procedures adopted thereunder;
- 8 (b) Administrative regulations promulgated by the secretary shall not expand or  
9 restrict rights granted to, or duties imposed upon, employees and  
10 administrative bodies by the provisions of this chapter; and
- 11 (c) No administrative body other than the Personnel Cabinet shall promulgate  
12 administrative regulations governing the subject matters specified in this  
13 section.
- 14 (6) Prior to filing an administrative regulation with the Legislative Research  
15 Commission, the secretary shall submit the administrative regulation to the board  
16 for review.
- 17 (a) The board shall review the administrative regulation proposed by the secretary  
18 not less than twenty (20) days after its submission to it;
- 19 (b) Not less than five (5) days after its review, the board shall submit its  
20 recommendations in writing to the secretary;
- 21 (c) The secretary shall review the recommendations of the board and may revise  
22 the proposed administrative regulation if he or she deems it necessary; and
- 23 (d) After the secretary has completed the review provided for in this section, he  
24 or she may file the proposed administrative regulation with the Legislative  
25 Research Commission pursuant to the provisions of KRS Chapter 13A.
- 26 (7) The administrative regulations shall provide:
- 27 (a) For the preparation, maintenance, and revision of a position classification plan



1 for all positions in the classified service, based upon similarity of duties  
2 performed and responsibilities assumed, so that the same qualifications may  
3 reasonably be required for, and the same schedule of pay may be equitably  
4 applied to, all positions in the same class. The secretary shall allocate the  
5 position of every employee in the classified service to one (1) of the classes in  
6 the plan. The secretary shall reallocate existing positions, after consultation  
7 with appointing authorities, when it is determined that they are incorrectly  
8 allocated, and there has been no substantial change in duties from those in  
9 effect when such positions were last classified. The occupant of a position  
10 being reallocated shall continue to serve in the reallocated position with no  
11 reduction in salary;

12 (b) For a pay plan for all employees in the classified service, after consultation  
13 with appointing authorities and the state budget director. The plan shall take  
14 into account such factors as:

- 15 1. The relative levels of duties and responsibilities of various classes of  
16 positions;
- 17 2. Rates paid for comparable positions elsewhere taking into consideration  
18 the effect of seniority on such rates; and
- 19 3. The state's financial resources.

20 Amendments to the pay plan shall be made in the same manner. Each  
21 employee shall be paid at one (1) of the rates set forth in the pay plan for the  
22 class of position in which he or she is employed, provided that the full  
23 amount of the annual increment provided for by the provisions of KRS  
24 18A.355, and the full amount of an increment due to a promotion, salary  
25 adjustment, reclassification, or reallocation, shall be added to an employee's  
26 base salary or wages;

27 (c) For the advertisement and acceptance of ~~open competitive examinations to~~

1           ~~test the relative fitness of applicants for the respective positions. The~~  
2           ~~examinations shall be announced publicly and} applications for~~{accepted}~~ at~~  
3           ~~least five (5)~~{ten-(10)}~~ days for those positions to be filled by classified~~  
4           ~~appointment or promotion~~{prior to certification of a register, and may be~~~~  
5           ~~advertised through the press, radio, and other media}. The secretary~~  
6           ~~may~~{shall}~~ continue to receive applications and review applicants~~{examine~~~~  
7           ~~candidates} on a continuous basis long enough to ensure~~{assure}~~ a sufficient~~  
8           ~~number of applicants~~{eligibles to meet the needs of the service. Except as~~~~  
9           ~~provided by this chapter, he shall add the names of successful candidates to~~  
10           ~~existing eligible lists in accordance with their respective ratings. The secretary~~  
11           ~~shall be free to use any investigation of education and experience and any test~~  
12           ~~of capacity, knowledge, manual skill, character, personal traits, or physical~~  
13           ~~fitness, which in his judgment, serves the need to discover the relative fitness~~  
14           ~~of applicants;~~

15           ~~(d) As provided by this chapter, for the establishment of eligible lists for~~  
16           ~~appointment, upon which lists shall be placed the names of successful~~  
17           ~~candidates in the order of their relative excellence in the respective~~  
18           ~~examinations. Except as provided by this chapter, an eligible's score shall~~  
19           ~~expire automatically one (1) year from the date of testing, unless the life of~~  
20           ~~the score is extended by action of the secretary for a period not to exceed one~~  
21           ~~(1) additional year. Except for those individuals exercising reemployment~~  
22           ~~rights, all eligibles may be removed from the register when a new~~  
23           ~~examination is established};~~

24           ~~(d)~~~~{(e)}~~ For the rejection of candidates or eligibles who fail to comply with  
25           reasonable requirements of the secretary in regard to such factors as age,  
26           physical condition, training, and experience, or who have attempted any  
27           deception or fraud in connection with an examination;

1        ~~(e)~~~~(f)~~        Except as provided by this chapter, for the appointment of a person  
2                        whose score is included in the five (5) highest scores earned on the  
3                        examination;

4        ~~(f)~~~~(g)~~        For annual, sick, and special leaves of absence, with or without pay, or  
5                        reduced pay, after approval by the Governor as provided by KRS  
6                        18A.155(1)(d);

7        ~~(g)~~~~(h)~~        For layoffs~~[lay-offs]~~, in accordance with the provisions of Section 7 of  
8                        this Act~~[KRS 18A.113, 18A.1131, and 18A.1132]~~, by reasons of lack of  
9                        work, abolishment of a position, a material change in duties or organization,  
10                      or a lack of funds;

11       ~~(h)~~~~(i)~~        For the development and operation of programs to improve the work  
12                      effectiveness of employees in the state service, including training, whether in-  
13                      service or compensated educational leave, safety, health, welfare, counseling,  
14                      recreation, employee relations, and employee mobility without written  
15                      examination;

16       ~~(i)~~~~(j)~~        For a uniform system of annual employee evaluation for classified  
17                      employees, with status, that shall be considered in determining eligibility for  
18                      discretionary salary advancements, promotions, and disciplinary actions. The  
19                      administrative regulations shall:

- 20                    1. Require the secretary to determine the appropriate number of job  
21                      categories to be evaluated and a method for rating each category;
- 22                    2. Provide for periodic informal reviews during the evaluation period  
23                      which shall be documented on the evaluation form and pertinent  
24                      comments by either the employee or supervisor may be included;
- 25                    3. Establish a procedure for internal dispute resolution with respect to the  
26                      final evaluation rating;
- 27                    4. Permit a classified employee, with status, who receives either of the two

1 (2) lowest possible evaluation ratings to appeal to the Personnel Board  
2 for review after exhausting the internal dispute resolution procedure.  
3 The final evaluation shall not include supervisor comments on ratings  
4 other than the lowest two (2) ratings;

5 5. Require that an employee who receives the highest possible rating shall  
6 receive the equivalent of two (2) workdays, not to exceed sixteen (16)  
7 hours, credited to his or her annual leave balance. An employee who  
8 receives the second highest possible rating shall receive the equivalent  
9 of one (1) workday, not to exceed eight (8) hours, credited to his or her  
10 annual leave balance; and

11 6. Require that an employee who receives the lowest possible evaluation  
12 rating shall either be demoted to a position commensurate with the  
13 employee's skills and abilities or be terminated; and

14 ~~(j)(k)~~ For other administrative regulations not inconsistent with this chapter  
15 and KRS Chapter 13A, as may be proper and necessary for its enforcement.

16 (8) For any individual hired or elected to office before January 1, 2015, and paid  
17 through the Kentucky Human Resources Information System, the Personnel  
18 Cabinet shall not require payroll payments to be made by direct deposit or require  
19 the individual to use a web-based program to access his or her salary statement.

20 (9) To the extent that KRS 16.010 to 16.199, 16.080, and 16.584 and administrative  
21 regulations promulgated by the commissioner of the Department of Kentucky State  
22 Police under authority granted in KRS Chapter 16 conflict with this section or any  
23 administrative regulation promulgated by the secretary pursuant to authority  
24 granted in this section, the provisions of KRS Chapter 16 shall prevail.

25 ➔SECTION 7. KRS 18A.113 IS REPEALED AND REENACTED TO READ  
26 AS FOLLOWS:

27 (1) As used in this section:

- 1        (a) "Furlough" or "reduction in hours" means the temporary reduction of  
2                    hours an employee is scheduled to work by the appointing authority within  
3                    a pay period; and
- 4        (b) "Layoff" means discharge of employment subject to the rights contained in  
5                    this section.
- 6        (2) An appointing authority shall have the authority to layoff or furlough employees  
7                    or reduce hours of employment for any of the following reasons:
- 8                    (a) Lack of funds or budgetary constraints;  
9                    (b) A reduction in spending authorization;  
10                   (c) Lack of work;  
11                   (d) Abolishment of a position;  
12                   (e) Efficiency; or  
13                   (f) Other material change in duties or organization.
- 14        (3) The appointing authority shall determine the classifications affected, the number  
15                   of employees laid-off in each classification, and each county to which a layoff  
16                   applies. In the same department or office, county, and job classification, interim  
17                   and probationary employees shall be laid-off before full-time or part-time  
18                   employees with status. For purposes of layoff, "probationary employee" shall not  
19                   include an employee with status serving a promotional probation.
- 20        (4) The provisions of this section shall not apply to federally funded time-limited  
21                   employees.
- 22        (5) The secretary of the Personnel Cabinet shall approve all actions taken under  
23                   subsection (2) of this section and no such layoff, furlough, or reduction of hours  
24                   may begin until the approval has been granted. The appointing authority, with  
25                   the approval of the secretary, shall have the authority to determine the extent,  
26                   effective dates, and length of any action taken under subsection (2) of this  
27                   section.

1 (6) In determining a layoff, the appointing authority shall consider all employees  
2 under the same appointing authority, within the classification affected, and  
3 within the county affected. Consideration shall be given to the following relevant  
4 factors and in this order:

5 (a) Job performance evaluations;

6 (b) Education, training, and experience;

7 (c) Disciplinary record; and

8 (d) Seniority.

9 (7) Any classified employee with status whose position is subject to layoff, furlough,  
10 or reduction of hours shall be provided written notice containing the reason for  
11 the action at least thirty (30) days in advance of the effective date of the action.

12 (8) (a) Any classified employee with status who is laid off shall be eligible to apply  
13 as a reemployment applicant for the job classification from which he or she  
14 was laid-off, in the cabinet from which he or she was laid-off for a period of  
15 two (2) years. A reemployment applicant shall be hired before any applicant  
16 except another reemployment applicant with greater seniority who is on the  
17 same register.

18 (b) A reemployment applicant shall not be removed from any register except as  
19 provided in Section 3 of this Act.

20 (c) When a reemployment applicant is removed from a register, he or she shall  
21 be notified in writing or electronically and shall have the right to appeal to  
22 the board within thirty (30) calendar days after receipt of the notification,  
23 excluding the day he or she receives notice.

24 (d) A reemployment applicant who accepts any classified position, or who  
25 retires through the Kentucky Employees Retirement System or Kentucky  
26 Teachers Retirement System, shall cease to have eligibility rights as a  
27 reemployment applicant.

1 (9) With the approval of the secretary, the Personnel Cabinet may place employees  
2 subject to a reduction in workforce in a different position.

3 (10) The secretary shall promulgate administrative regulations pursuant to KRS  
4 Chapter 13A to fully implement the provisions of this section.

5 (11) A layoff, furlough, or reduction of hours implemented in accordance with this  
6 section shall not be appealable to the Personnel Board.

7 ➔ Section 8. KRS 48.130 is amended to read as follows:

8 (1) The General Assembly shall include in each enacted branch budget bill a budget  
9 reduction plan for a revenue shortfall in the general fund or road fund of five  
10 percent (5%) or less. The budget reduction plan shall direct how budget reductions  
11 shall be implemented if there is a revenue shortfall of five percent (5%) or less.

12 (2) A layoff~~[lay-off]~~ of state employees in the executive branch under the budget  
13 reduction plan enacted by the General Assembly shall comply with the provisions  
14 of Section 7 of this Act~~[KRS 18A.1132]~~.

15 (3) Any revenue shortfall in the general fund or road fund of greater than five percent  
16 (5%) shall require action by the General Assembly.

17 (4) Upon the issuance of an official revenue estimate by the consensus forecasting  
18 group reflecting a revenue shortfall in the general fund or road fund, or upon the  
19 existence of an actual revenue shortfall in the general fund or road fund at the close  
20 of a fiscal year as determined by the Office of State Budget Director, the Office of  
21 State Budget Director shall notify all branches of government. If the revenue  
22 shortfall is five percent (5%) or less, the following actions shall be taken:

23 (a) The unappropriated balance of funds in the surplus accounts of the general  
24 fund or road fund shall first be used to meet the shortfalls in those respective  
25 funds; and

26 (b) If the amounts described in paragraph (a) of this subsection are insufficient to  
27 address the revenue shortfall, the enacted budget reduction plan included in

1 each branch budget bill shall be implemented.

2 (5) The budget reduction plan for each branch of government may provide that the  
3 annual increment granted state employees under KRS 18A.355 shall be reduced as  
4 provided by KRS 18A.355. Any reduction of the annual increment shall be uniform  
5 for all employees.

6 (6) No budget reduction action shall be taken by any branch head in excess of the  
7 actual or projected deficit.

8 (7) If general fund or road fund tax receipts increase over the revenues estimated in the  
9 official revenue estimate that resulted in reductions, then services may be restored  
10 in the reverse order of the reduced services.

11 ➔ Section 9. KRS 18A.025 is amended to read as follows:

12 (1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015,  
13 who shall be considered an employee of the state. The secretary shall be a graduate  
14 of an accredited college or university and have at least five (5) years' experience in  
15 personnel administration or in related fields, have known sympathies with the merit  
16 principle in government, and shall be dedicated to the preservation of this principle.  
17 Additional education may be substituted for the required experience and additional  
18 experience may be substituted for the required education.

19 (2) The secretary of the Personnel Cabinet or the secretary's designee<sup>[,]</sup> shall be  
20 responsible for the coordination of the state's affirmative action plan<sup>[,]</sup> established  
21 by KRS 18A.138.

22 (3) There is established within the Personnel Cabinet the following offices,  
23 departments, and divisions, each of which shall be headed by either a  
24 commissioner, executive director, or division director appointed by the secretary,  
25 subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050,  
26 depending on the level of the appointment, except that the Kentucky Employees  
27 Deferred Compensation Authority shall be headed by an executive director who



1 shall be appointed by the authority's board of directors:

2 (a) Office of the Secretary, which shall be responsible for communication with  
3 state employees about personnel and other relevant issues and for the  
4 administration and coordination of the following:

5 1. Office of Employee Relations, composed of the following programs:

6 a. Workers' Compensation Program pursuant to KRS 18A.375;

7 b. Sick leave Sharing Program, pursuant to KRS 18A.197;

8 c. Annual Leave Sharing Program, pursuant to KRS 18A.203;

9 d. Health and Safety Program;

10 e. Employee Assistance Program;

11 f. Employee Incentive Programs, pursuant to KRS 18A.202;

12 g. Employee Mediation Program; and

13 h. Living Organ Donor Leave Program, pursuant to KRS 18A.194;

14 2. Office of Administrative Services, which shall be responsible for the  
15 Personnel Cabinet's administrative functions, composed of the following  
16 programs:

17 a. Division of Technology Services;

18 b. Division of Human Resources; and

19 c. Division of Financial Services;

20 3. Office of Legal Services, which shall provide legal services to the  
21 Personnel Cabinet and to executive branch agencies and their  
22 representatives upon request;

23 4. Office of Diversity, Equality, and Training, which shall coordinate and  
24 implement diversity initiatives for state agencies, the affirmative action  
25 plan established by KRS 18A.138, the state Equal Employment  
26 Opportunity Program, and the Minority Management Trainee Program;

27 5. Governmental Services Center, which shall be responsible for employee

- 1 and managerial training and organizational development;
- 2 6. Kentucky Public Employees Deferred Compensation Authority, which
- 3 shall maintain a deferred compensation plan for state employees; and
- 4 7. Office of Public Affairs, which shall assist in all aspects of developing
- 5 and executing the strategic direction of the cabinet;
- 6 (b) Department of Human Resources Administration, which shall be composed of
- 7 the:
- 8 1. Division of Employee Management, which shall be responsible for
- 9 payroll, records, classification, and compensation. The division shall
- 10 also be responsible for implementing layoff~~[lay-off]~~ plans mandated by
- 11 Section 7 of this Act~~[KRS 18A.113 to 18A.132]~~ and shall monitor
- 12 and assist state agencies in complying with the provisions of the federal
- 13 Fair Labor Standards Act. The division shall:
- 14 a. Maintain the central personnel files mandated by KRS 18A.020
- 15 and process personnel documents and position actions;
- 16 b. Operate and maintain a uniform payroll system and certify
- 17 payrolls as required by KRS 18A.125;
- 18 c. Maintain plans of classification and compensation for state service
- 19 and review and evaluate the plans; and
- 20 d. Coordinate and implement the employee performance evaluation
- 21 systems throughout state government; and
- 22 2. Division of Career Opportunities, which shall be responsible for
- 23 employment counseling, applicant processing, employment register, and
- 24 staffing analysis functions. The division shall:
- 25 a. Operate a centralized applicant and employee counseling program;
- 26 b. Operate, coordinate, and construct the examination program for
- 27 state employment;

- 1                   c. Prepare registers of candidate employment; and
- 2                   d. Coordinate outreach programs, such as recruitment and the
- 3                   Administrative Intern Program; and
- 4       (c) Department of Employee Insurance, which shall be responsible for the:
- 5               1. Health Insurance Program, pursuant to KRS 18A.225;
- 6               2. Flexible Benefit Plan, pursuant to KRS 18A.227;
- 7               3. Division of Insurance Administration, which shall be responsible for
- 8               enrollment and service functions;
- 9               4. Division of Financial and Data Services, which shall be responsible for
- 10              fiscal and data analysis functions; and
- 11              5. Life Insurance Program pursuant to KRS 18A.205 to 18A.220.
- 12   (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to
- 13   KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and
- 14   implementation of policy. The secretary may employ, pursuant to the provisions of
- 15   this chapter, personnel necessary to execute the functions and duties of the
- 16   department.
- 17   ➔Section 10. KRS 18A.0751 is amended to read as follows:
- 18   (1) The board shall promulgate comprehensive administrative regulations for the
- 19   classified service governing:
- 20       (a) Appeals by state employees;
- 21       (b) Demotion;
- 22       (c) Dismissal;
- 23       (d) Fines, suspensions, and other disciplinary measures;
- 24       (e) Probation, provided that the board may not require an initial probationary
- 25       period in excess of six (6) months except as provided in subsection (4)(e) of
- 26       this section and KRS 18A.005;
- 27       (f) Promotion;

- 1 (g) Reinstatement;
- 2 (h) Transfer; and
- 3 (i) Employee grievances and complaints.
- 4 (2) (a) These administrative regulations shall comply with the provisions of this  
5 chapter and KRS Chapter 13A, and shall have the force and effect of law,  
6 when approved by the board, after compliance with the provisions of KRS  
7 Chapters 13A and 18A and the procedures adopted thereunder;
- 8 (b) Administrative regulations promulgated by the board shall not expand or  
9 restrict rights granted to, or duties imposed upon, employees and  
10 administrative bodies by the provisions of this chapter; and
- 11 (c) No administrative body, other than the personnel board, shall promulgate  
12 administrative regulations governing the subject matters specified in this  
13 section.
- 14 (3) Prior to filing an administrative regulation with the Legislative Research  
15 Commission, the board shall submit the administrative regulation to the secretary  
16 for review:
- 17 (a) The secretary shall review the administrative regulation proposed by the board  
18 not more than twenty (20) days after its submission to him or her;
- 19 (b) Not more than five (5) days after his review, the secretary shall submit his or  
20 her recommendations in writing to the board;
- 21 (c) The board shall review the recommendations of the secretary and may revise  
22 the proposed administrative regulation as it deems necessary; and
- 23 (d) After the board has completed the review provided for in this section, it may  
24 file the proposed administrative regulation with the Legislative Research  
25 Commission pursuant to the provisions of KRS Chapter 13A.
- 26 (4) These administrative regulations shall provide:
- 27 (a) For the procedures to be utilized by the board in the conduct of hearings by

- 1 the board, consistent with the provisions of KRS Chapter 13B;
- 2 (b) For reduction in rank or grade as provided by this chapter;
- 3 (c) For discharge, as provided by this section;
- 4 (d) For imposition, as disciplinary measures, of a fine of not more than ten (10)
- 5 working days' pay, or for suspension from the service without pay for no
- 6 longer than thirty (30) working days and, in accordance with the provisions of
- 7 KRS 18A.095, for the manner of notification of the employee of the discipline
- 8 and his or her right of appeal;
- 9 (e) No probationary period may exceed twelve (12) months, except as provided in
- 10 KRS 18A.005. The secretary may recommend an initial probationary period
- 11 in excess of six (6) months for specific job classifications to the board. This
- 12 recommendation shall take the form of a proposed administrative regulation
- 13 that shall be submitted to the board for approval. The subject of the
- 14 administrative regulation shall be limited to job classifications for which an
- 15 initial probationary period in excess of six (6) months is required and shall
- 16 specify:
- 17 1. The job classification for which an initial probationary period in excess
- 18 of six (6) months is required; and
- 19 2. The specific number of months constituting the initial probationary
- 20 period for the job classification. No other administrative regulation shall
- 21 include any provision prescribing an initial probationary period in
- 22 excess of six (6) months, except as provided in KRS 18A.005. Upon
- 23 approval by the board of the proposed administrative regulation
- 24 provided for in this paragraph, the board shall file the regulation with
- 25 the Legislative Research Commission as provided by KRS Chapter 13A;
- 26 (f) For promotions which shall give appropriate consideration to the applicant's
- 27 qualifications, record of performance, conduct, and seniority. Except as

- 1 provided by this chapter, vacancies shall be filled by promotion whenever  
2 practicable and in the best interest of the service;
- 3 (g) For reemployment of laid-off employees in accordance with the provisions of  
4 this chapter;
- 5 (h) For transfer from a position in one (1) department to a similar position in  
6 another department involving similar qualifications, duties, responsibilities,  
7 and salary ranges as provided by the provisions of Section 7 of this Act [KRS  
8 18A.1131(3)(a)];
- 9 (i) For establishment of a plan for resolving employee grievances and  
10 complaints. This plan shall not restrict rights granted employees by the  
11 provisions of this chapter;
- 12 (j) For promotion of career employees to positions in the unclassified service  
13 without loss of status to the individual employees so promoted, as provided by  
14 this chapter; and
- 15 (k) For any other administrative regulations not inconsistent with this chapter and  
16 KRS Chapter 13A as may be proper and necessary for its enforcement.
- 17 ➔ Section 11. KRS 18A.100 is amended to read as follows:
- 18 (1) Any final order of the board either upholding or invalidating the dismissal,  
19 demotion, or suspension [~~or other penalization~~] of a classified or an unclassified  
20 employee may be appealed either by the employee or by the appointing authority.
- 21 (2) The party aggrieved may appeal a final order by filing a petition with the clerk of  
22 the Franklin Circuit Court in accordance with KRS Chapter 13B.
- 23 ➔ Section 12. KRS 18A.355 is amended to read as follows:
- 24 (1) An annual increment of not less than five percent (5%) of the base salary or wages  
25 of each state employee shall be granted to each employee on his or her anniversary  
26 date. The employee's base salary or wages shall be increased by the amount of the  
27 annual increment. When any increment due to a promotion, reallocation,

1 reclassification or salary adjustment is granted an employee, the employee's base  
2 salary or wages shall be increased by the amount of such increment. An employee's  
3 base salary or wages shall not be increased by the amount of lump-sum payment  
4 awarded under subsection (7)(i) of Section 6 of this Act~~[KRS 18A.110(7)(j)]~~.

5 (2) The branch budget recommendation submitted to the General Assembly under KRS  
6 Chapter 48 shall include a request for the amount of the annual increment expressed  
7 as a percentage of each employee's base salary or wages and a request for the total  
8 appropriation needed to fund the annual increment. The annual increment shall be  
9 uniform for all employees. The financial plan enacted under the provisions of KRS  
10 48.300 shall contain the annual increment expressed as a percentage of each  
11 employee's base salary or wages, and the total appropriation needed to fund the  
12 annual increment.

13 (3) The budget reduction plan submitted and enacted under the provisions of KRS  
14 Chapter 48 shall provide that a reduction of the annual increment granted under this  
15 section shall be made only after other cost savings measures, as provided by  
16 Section 7 of this Act~~[KRS 18A.1132]~~, are taken. Any such reduction shall be  
17 uniform for all state employees and shall comply with the provisions of this chapter  
18 and KRS Chapter 48.

19 →Section 13. KRS 61.371 is amended to read as follows:

20 As used in KRS 61.371 to 61.377~~[61.379]~~, unless the context otherwise requires:

- 21 (1) "Public employee" means a person appointed to a position in public service for  
22 which he or she is compensated on a full-time basis, excluding elected officers;
- 23 (2) "Public service" means employment by the Commonwealth of Kentucky, or by any  
24 county, city, or political subdivision or by any department, board, agency, or  
25 commission thereof;
- 26 (3) "Employer" means the officer, employee, board, commission or agency authorized  
27 by law to make appointments to a position in public service;

- 1 (4) "Position" means an office or employment in the public service, excluding an office  
2 filled by popular election;
- 3 (5) "Military duty" means training and service performed by an inductee, enlistee, or  
4 reservist or any entrant into a temporary component of the armed forces of the  
5 United States, and time spent in reporting for and returning from such training and  
6 service, or if a rejection occurs, from the place of reporting therefor. "Military duty"  
7 shall not include voluntary active duty for training of an individual as a reservist in  
8 the Armed Forces of the United States;
- 9 (6) "Board" means the personnel board established by KRS Chapter 18A;
- 10 (7) "Seniority" means the increase in compensation, status, and responsibility resulting  
11 from promotion or step progression within a class of a classified service or  
12 promotion or increase in compensation, status, and responsibility in the unclassified  
13 service.
- 14 ➡ Section 14. KRS 61.373 is amended to read as follows:
- 15 (1) Any public employee who leaves a position after June 16, 1966, voluntarily or  
16 involuntarily, in order to perform military duty, and who is relieved or discharged  
17 from such duty under conditions other than dishonorable, and who has not been  
18 absent from public employment due to military duty in time of war or national or  
19 state emergency for a period of time longer than the duration of the war or national  
20 or state emergency plus six (6) months or in time of peace for a period of time not  
21 longer than six (6) years, and makes application for reemployment within ninety  
22 (90) days after he or she is relieved from military duty or from hospitalization or  
23 treatment continuing after discharge for a period of not more than one (1) year:
- 24 (a) If still physically qualified to perform the duties of his or her position, shall  
25 be restored to such position if it exists and is not held by a person with greater  
26 seniority, otherwise to a position of like seniority, status, and pay;
- 27 (b) If not qualified to perform the duties of his or her position by reason of



- 1           disability sustained during such service, the public employee shall be placed  
2           in another position, the duties of which he or she is qualified to perform and  
3           which will provide him or her like seniority, status, and pay, or the nearest  
4           approximation thereof consistent with the circumstances of his or her case.
- 5   (2)   (a)   Officers and employees of this state, or any department or agency thereof,  
6           shall be granted a leave of absence by their employers for the period required  
7           to perform active duty or training in the National Guard or any reserve  
8           component of the Armed Forces of the United States.
- 9           (b)   Upon the officer's or employee's release from a period of active duty or  
10          training, except as provided in KRS 61.394, he or she shall be permitted to  
11          return to his or her former position of employment or a position with  
12          equivalent seniority, status, pay, and any other rights or benefits that would  
13          have been bestowed if he or she had not been absent.
- 14          (c)   An officer or employee who is not permitted to return to his or her former  
15          position may appeal the dismissal in accordance with KRS Chapter 18A.
- 16   (3)   In the case of any person who is entitled to be restored to a position in accordance  
17          with KRS 61.371 to 61.377~~[61.379]~~, if the personnel board finds that the  
18          department or agency with which such person was employed immediately prior to  
19          his or her military duty:
- 20          (a)   Is no longer in existence and its functions have not been transferred to any  
21                  other agency; or
- 22          (b)   For any reason it is not feasible for such person to be restored to employment  
23                  by the department or agency, the board shall determine whether or not there is  
24                  a position in any other department or agency of the same public employer for  
25                  which the person is qualified and which is either vacant or held by a person  
26                  having a temporary appointment thereto. In any case in which the board  
27                  determines that there is such a position, the person shall be restored to the

1 position by the department or agency in which the position exists.

2 ➔ Section 15. KRS 61.375 is amended to read as follows:

3 Any person who is restored to a position in accordance with KRS 61.371 to  
4 ~~61.377~~[61.379] shall not be discharged from his or her position without cause within one  
5 (1) year after his or her restoration, and shall, without limiting other rights conferred by  
6 this or other sections, be considered as having been on furlough or leave of absence  
7 during his or her period of military duty. He or she shall be restored without loss of  
8 seniority, including, upon promotion or other advancement following completion of any  
9 period of employment required therefor, a seniority date in the advance position which  
10 will place him or her ahead of all persons previously junior to him or her who advanced  
11 to the position during his or her absence in the Armed Forces.

12 ➔ Section 16. The following KRS sections are repealed:

13 61.379 Rules and regulations -- Appeals from failure to restore or discharge --  
14 Procedure.

15 18A.1131 Lay-off rules applicable to classified employees only.

16 18A.1132 Lay-off rules applicable to both classified and unclassified employees.



# APPEAL FORM

For Official Use Only

\*\*\* ALL APPEALS TO THE PERSONNEL BOARD MUST BE ON THIS FORM. \*\*\*

This appeal to the Kentucky Personnel Board is hereby filed pursuant to the provisions of KRS Chapter 18A. By law, you are required to provide the following information in order to file a Personnel Board appeal.



Name: \_\_\_\_\_  
(Last First Middle Maiden)

PERNR or Employee ID: \_\_\_\_\_



Personal Phone No.: \_\_\_\_\_ Workstation Phone No.: \_\_\_\_\_

Personal Email Address: \_\_\_\_\_

Home Address: \_\_\_\_\_  
(Street City State Zip)

Workstation Address: \_\_\_\_\_  
(Street City State Zip)

Check if being represented by an attorney, and complete the following:

Attorney Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_ Email: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
(Street City State Zip)



Cabinet/Agency Name: \_\_\_\_\_

Appointing Authority Name: \_\_\_\_\_



Date of receipt of notice of alleged action (i.e., Agency letter of dismissal, suspension, demotion, etc.), if applicable. If you did not receive a notice, please use "n/a" to indicate that you did not receive written notice about the alleged action and then please indicate the date you first learned about the matter you wish to appeal:

**Please attach a copy of any written notice that you have received relating to this Appeal.**

I am a:  Classified Employee  Probationary Employee  Unclassified Employee  Applicant for Employment

I am appealing the following action(s) [Check all that apply.]

- Dismissal  Demotion  Involuntary Transfer  Suspension  
 Promotion/Non-selection  Discrimination: (i.e., religious, race, color, national origin, sex, age over 40, disability, political, or other protected category. **Please circle the type(s) of discrimination claimed and/or explain other, below**)  
 FFTL claim(s)  Veteran's claim(s)  Employee Evaluation  Other/Claim not listed:

Please further explain your claim(s), if not adequately/fully identified above: \_\_\_\_\_  
\_\_\_\_\_

List the specific statute, regulation, and/or policy that was allegedly violated (required, pursuant to KRS 18A.095(14)(d)):  
 KRS 18A.095  101 KAR 1:345  101 KAR 1:400  101 KAR 2:095  101 KAR 2:102  101 KAR 3:050  
Other: \_\_\_\_\_

The following is a short, plain, and concise statement of the facts, cause, and/or reason that relate to the action I am appealing (You may submit documents you believe to be important to your appeal now AND/OR as your appeal moves forward). **Remember you may only have thirty (30) calendar days to appeal the alleged action.**

\_\_\_\_\_  
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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney's Signature (if applicable)

\_\_\_\_\_  
Date

**This form is to be mailed, emailed, or delivered to:**

**Kentucky Personnel Board  
1025 Capital Center Drive, Suite 105  
Frankfort, KY 40601  
Phone: (502) 564-7830  
Fax: (502) 695-5799  
PersonnelBoard@ky.gov**

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