

## **INFORMATION SHEET REGARDING THE REQUIRED OATHS OF OFFICE**

### **Q. What oath is required for new board members?**

A: There actually are two oaths — one verbal and one written — that new board members must take. The verbal oath is found in Section 228 of the Kentucky Constitution. An official qualified under KRS 62.020 (see below) must administer this oath by having the board member repeat after the official. The official must then certify in writing that the oath was administered, and this certification must be filed with the Office of the County Clerk. A separate written oath is set out in KRS 160.170. This oath may be prepared as a form document to be completed and signed by the board member and then notarized. The executed document must be maintained as an official board record.

### **Q. Who may administer the Constitutional oath to new board members?**

A: KRS 62.020 requires that this verbal oath be administered by an active, retired, or senior status state justice or judge; any active, retired, or senior status federal judge with Kentucky jurisdiction; any member of the Kentucky General Assembly; any county judge executive; notary public; clerk of a court; or justice of the peace within the county of the board member.

### **Q. How does the official certify that s/he administered the Constitutional oath?**

A: The official administering the oath must certify in writing that s/he administered the oath. This document should state the official's name and title, the name of the board member to whom the oath was administered and the date of administration of the oath and should be signed and dated by the official. This document should then be filed in the Office of the County Clerk, pursuant to KRS 62.020.

### **Q. Who must take these oaths?**

A: Newly elected or appointed board members must take both oaths. This includes not only members that are new to the board itself, but also members who are reelected for additional terms and members elected or appointed to fill an unexpired term.

### **Q. When is the earliest time an elected board member may take the Constitutional oath?**

A: The oath may be administered at any time following issuance of certificates of election by the county board of elections. See KRS 118.425(2) and OAG 79-606.

**Q. Where may the Constitutional oath be administered?**

A: The law does not contain limitations on where the oath may be administered. OAG 78-707. Specifically, there is no requirement that a board member must be sworn in at a board meeting.

**Q. When should an elected board of education member take the Constitutional oath and execute the written oath?**

A: KRS 62.010(2) provides that the Constitutional oath is to be taken on or before the day an elected officer's term of office begins. KRS 160.170 says that the written oath should be signed before the board member assumes his or her duties. It is therefore recommended board members for the 2020 election cycle take the oaths on or before Monday, January 4, 2021. See KRS 160.200(2). There are Opinions of the Attorney General and case authorities that say the Constitutional oath may be taken a reasonable time after a term commences where there is a reasonable excuse for the delay. OAG 78-50, OAG 90-139, Lewin v. Town of Ft. Mitchell, 147 S.W. 922 (1912). The Office of the Kentucky Attorney General reiterated this rule in OAG 13-003 (city council member was authorized to take oath two days after commencement of term due to illness). Consultation with board counsel is advisable in the event school leaders intend to rely on these authorities.

Persons elected to fill unexpired terms, such as board members previously appointed to fill a vacancy who successfully run to serve out the remainder of the subject term or other persons elected to an unexpired term, should take the oaths of office and assume office immediately upon certification of election results by the county board of elections. KRS 118.775; KRS 160.190.

**(UPDATE - December 2020)**

**Q: May the oaths of office be managed virtually?**

A: Yes. With respect to the oral oath of office, the Kentucky Attorney General opined in OAG 20-17 that “[b]ecause the text does not prohibit it, the oath of office required by KRS 62.010, may be administered by virtual means.” Also separate legislation that applies during the pending emergency, provides that the written oath may be dealt with remotely because Section (11) of SB 150 allows for notarization of documents in counterparts via video teleconference.