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TO: The University Community

CC: Dana Fohl, J.D., Vice President of Compliance & University Counsel
Sara Zeigler, Ph.D., Senior Vice President & Provost
David T. McFaddin, Ed.D., President

FROM: Ethan Durham, M.P.A, Manager of Policy and Board Operations

DATE: September 1, 2026

RE: Notice of Comment Period: University Policy 4.6.16POL, Dismissal of Faculty

MEMORANDUM

Substantive revisions to University Policy 4.6.16POL, Dismissal of Faculty, have been drafted and are now posted for the required ten-business-day public comment period in accordance with [University Policy 1.1.1, Policy on Policies and Regulations](#). To meet the October 1, 2026 statutory compliance deadline and allow sufficient time for review of the comments by the drafting team if necessary, and for full review of the final draft by the President's Cabinet and President before consideration by the Board of Regents at its September 23, 2026, meeting, the comment period will follow a modified procedure consisting of ten calendar days, rather than ten business days. The comment period will begin on **Tuesday, September 1, 2026**, and **close at the end of the day on Friday, September 11, 2026**. Due to the extent of the proposed revisions and the reorganization of several sections, readability was significantly impacted. Thus, the revisions are presented in a clean draft format and accompanied by a summary of the principal changes. Copies of the proposed draft, the existing Policy for comparison, and the public comment form are available on the [EKU Policy Website](#).

These revisions are being proposed in direct response to House Bill 490, enacted by the Kentucky General Assembly during the 2026 Regular Session. HB 490 amended Kentucky law governing public postsecondary institutions to require each state university board to establish a standardized process governing the removal of faculty members for bona fide financial reasons. The proposed revisions are intended to bring Policy 4.6.16POL into compliance with these new statutory requirements before the October 1, 2026 deadline. A copy of HB 490, as enacted, is attached as an appendix to this memorandum for reference.

A drafting team of University stakeholders worked with the Office of University Counsel during Summer 2026 to develop the proposed revisions. The drafting team included Sara Zeigler, Ph.D., Senior Vice President & Provost; Dana D. Fohl, J.D., Vice President, Compliance & University Counsel; Ethan Durham, M.P.A., Manager of Policy and Board Operations; Socorro Zaragoza, Ph.D., Professor, Department of Language & Cultural Studies, Anthropology & Sociology; Justin Stearns, Ph.D., Associate Professor of Accounting; Mark

Pitts, Ph.D., Assistant Professor, Department of Physics, Geosciences & Astronomy; Kerem Ozan Kalkan, Ph.D., Professor of Political Science; and Dominic Ashby, Ph.D., Associate Chair & Associate Professor, Department of English.

II. Summary of Changes

The proposed revisions establish a standardized process for the dismissal of tenured faculty due to bona fide financial reasons or program closure. The existing process for dismissal of tenured faculty for cause remains substantively unchanged.

The draft incorporates the statutory term “Bona Fide Financial Reasons,” which includes the statutory definition of, but is not limited to, financial exigency, low enrollment in a particular program or major, and misalignment of revenue and costs in a particular college, department, program, or major. Consistent with HB 490, the draft reorganizes the Policy’s existing provisions concerning financial exigency and academic program discontinuance into a process addressing Bona Fide Financial Reasons or Program Closure.

Under the proposed process, the President must submit a recommendation report to the Board of Regents identifying the asserted Bona Fide Financial Reasons and any tenured faculty appointments recommended for elimination. In preparing that report, the President must request a report and recommendation from the Provost. The Provost’s report must include the justification, supporting data, and relevant Bona Fide Financial Reasons underlying the recommendation. When financial exigency is asserted, the determination must also be made in accordance with University Policy 1.5.1POL, Financial Exigency. Program Closure may be initiated through Academic Program Review or another applicable University process.

The draft permits the Provost to seek consultation when preparing the recommendation. Consultation may occur individually or through an advisory panel designated by the Provost and may include representatives of academic administration, chairs, deans, and faculty. The draft also authorizes the Provost to establish procedures governing the development of the Provost’s recommendation.

The draft generally preserves the Policy’s existing considerations for determining which faculty appointments may be affected. These include whether a funded position is available for which an affected faculty member is qualified; expertise necessary to sustain an academic program, approved curriculum, or accreditation requirements; tenure status; academic rank; date of tenure; and length of employment with the University. The draft reorganizes these considerations for application within the revised process.

Consistent with HB 490, a tenured faculty member recommended for dismissal must receive written notice at least thirty (30) days before the Board considers final action. The notice must state the reasons for the proposed removal and provide the supporting evidence or a summary of the data relied upon. The faculty member must also be provided an opportunity to respond before the Board, by counsel or otherwise, and to introduce testimony. The Board retains responsibility for determining whether removal is warranted and rendering the final decision.

II. HB 490 and Policy 4.6.16 Information Session

Facilitators: Provost Sara Zeigler, University Counsel Dana Fohl, and Ethan Durham

Join us for an informational session on House Bill 490 and the proposed revisions to Policy 4.6.16, Dismissal of Faculty, on Thursday, September 3, 2026, 10-11 a.m. in the Faculty Center for Teaching & Learning (Crabbe 318). The session will explain the new state requirements, how a drafting team of campus stakeholders incorporated them into the proposed policy, and provide an opportunity to ask questions during the Sept 1 to Sept. 11 public comment period. You may register [here](#).

III. Comment Period

In accordance with University Policy 1.1.1, the proposed revisions to Policy 4.6.16POL are now submitted to the University community for review during the public comment period. The President's Cabinet, Provost's Cabinet, Staff Council, and Executive Committee of the Faculty Senate are being notified of this posting. All comments received during the comment period will be routed to the appropriate stakeholders and the drafting team for review and consideration. Comments should be submitted through the public comment form available on the [EKU Policy Website](#).

If you have any questions, please contact the Office of University Counsel.

CHAPTER 169

(HB 490)

AN ACT relating to employment at public postsecondary education institutions and declaring an emergency.

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

➔Section 1. KRS 164.360 is amended to read as follows:

- (1) (a) Each board of regents for the universities shall appoint a president, appoint all faculty members and employees, and fix their compensation and tenure of service, subject to the provisions of subsections (2) to ~~(6)(5)~~ of this section. Faculty member and employee appointment and removal decisions may be delegated to the president in accordance with policy adopted by each board of regents.
- (b) The board of regents for the Kentucky Community and Technical College System shall appoint a president, appoint all faculty members and employees, and fix their compensation and tenure of service, subject to the provisions of subsections (2) to ~~(6)(5)~~ of this section. Faculty member and employee appointment and removal decisions may be delegated to the president in accordance with policy adopted by the board of regents.
- (2) ~~A[No]~~ person shall **not** be employed at an institution where his or her relative serves on the board of regents for that institution.
- (3) Each board may remove the president of the university or Kentucky Community and Technical College System, and the president may remove any faculty member or employee.
- (4) ~~A[No]~~ president or faculty member **may**~~[shall]~~ be removed~~[except]~~ for cause, which shall include incompetency, neglect of or refusal to perform his or her duty, immoral conduct, or failure to meet college or university performance and productivity requirements as determined in accordance with subsection (5) of this section. A president or faculty member shall not be removed until after thirty (30) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him or her to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him or her, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his or her presence.
- (5) President and faculty member performance and productivity shall be evaluated at least once every four (4) years using a process approved by each board. Failure to meet performance and productivity requirements may result in removal of a president or faculty member regardless of status. The evaluation process shall be established by each board and provided to all faculty members by January 1, 2026, to become effective July 1, 2026.
- (6) (a) ***In addition to removal for cause as provided in subsections (4) and (5) of this section, a faculty member may be removed by the board for bona fide financial reasons, including but not limited to:***
 1. ***Financial exigency;***
 2. ***Low enrollment in a particular program or major; or***
 3. ***Misalignment of revenue and costs in a particular college, department, program, or major.***
- (b) ***The process by which removal as provided in paragraph (a) of this subsection shall be proposed, evaluated, and decided shall be established by each board and provided to all faculty members, with an effective date no later than October 1, 2026. The process shall require that no faculty member is removed until after thirty (30) days' notice in writing, stating the reason for removal, and after an opportunity has been given to the faculty member to respond before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board.***

➔Section 2. KRS 164.230 is amended to read as follows:

- (1) The board of trustees has full power to suspend or remove any of the officers, teachers, professors, or agents that it is authorized to appoint, but ~~a[no]~~ president, professor, or teacher shall **not** be removed except for:
 - (a) Incompetency;~~[-]~~

- (b) Neglect of or refusal to perform his or her duty;~~[-]~~
 - (c) Immoral conduct;~~[-or-]~~
 - (d) Failure to meet college or university performance and productivity requirements as determined in accordance with subsection (2) of this section; **or**
 - (e) ***For bona fide financial reasons, including but not limited to:***
 - 1. ***Financial exigency;***
 - 2. ***Low enrollment in a particular program or major; or***
 - 3. ***Misalignment of revenue and costs in a particular college, department, program, or major.***
- (2) A president, professor, or teacher shall not be removed ***under subsection (1)(a) to (d) of this section*** until after thirty (30) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him or her to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board.
- (3) ***The process by which removal as provided in subsection (1)(e) of this section shall be proposed, evaluated, and decided shall be established by the board and provided to all faculty members, with an effective date no later than October 1, 2026. The process shall require that no faculty member is removed until after thirty (30) days' notice in writing, stating the reason for removal, and after an opportunity has been given to the faculty member to respond before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board.***
- (4) Officer, teacher, professor, or agent appointment and removal decisions may be delegated to the president in accordance with policy adopted by the board of trustees.
- ~~(5)(2)~~ President, teacher, and professor performance and productivity shall be evaluated at least once every four (4) years using a process approved by the board. Failure to meet performance and productivity requirements may result in removal of a president, teacher, or professor regardless of status. The evaluation process shall be established by the board and provided to all faculty members by January 1, 2026, to become effective July 1, 2026.

➔ Section 3. KRS 164.830 is amended to read as follows:

- (1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. A majority of the voting members of the board shall constitute a quorum for the transaction of business. Powers of the board shall include the following:
- (a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university. Faculty member and personnel appointment decisions may be delegated to the president in accordance with policy adopted by the board of trustees;
 - (b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for:
 - 1. Incompetence;~~[-]~~
 - 2. Neglect of or refusal to perform his or her duty;~~[-]~~
 - 3. Immoral conduct;~~[-or-]~~
 - 4. Failure to meet college or university performance and productivity requirements as determined in accordance with paragraph ~~(d)~~~~(e)~~ of this subsection; **or**
 - 5. ***Bona fide financial reasons, including but not limited to:***
 - 1. ***Financial exigency;***
 - 2. ***Low enrollment in a particular program or major; or***
 - 3. ***Misalignment of revenue and costs in a particular college, department, program, or major;***~~[-]~~

- (c) Any removal shall be made in accordance with procedures established by law for state institutions. Officer, faculty, agent, or other personnel removal decisions may be delegated to the president in accordance with policy adopted by the board of trustees;
 - (d) ***The process by which removal as provided in paragraph (b)5. of this subsection shall be proposed, evaluated, and decided shall be established by the board and provided to all faculty members, with an effective date no later than October 1, 2026. The process shall require that no faculty member is removed until after thirty (30) days' notice in writing, stating the reason for removal, and after an opportunity has been given to the faculty member to respond before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board;***
 - (e)~~(e)}~~ Creation of a process requiring the evaluation of the performance and productivity of the president, professors, and teachers at least once every four (4) years. Failure to meet performance and productivity requirements may result in removal of a president, professor, or teacher regardless of status. The evaluation process shall be established by the board and provided to all faculty members by January 1, 2026, to become effective July 1, 2026;
 - (f)~~(d)}~~ Election of a chairperson, a vice chairperson to act in the absence or temporary disability of the chairperson, and any other officers as it deems wise, including the annual election of a six (6) member executive committee which shall have the powers that the board delegates to it and shall operate under the rules the board shall establish under its authority to make bylaws, rules, and regulations consistent with this chapter. The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after March 21, 2017, shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively;
 - (g)~~(e)}~~ Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property;
 - (h)~~(f)}~~ Requirement of reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;
 - (i)~~(g)}~~ Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees;
 - (j)~~(h)}~~ The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress; and
 - (k)~~(i)}~~ The board shall adopt bylaws, rules, and regulations for the governance of its members, officers, agents, and employees, which shall reference the member removal and replacement provisions of KRS 63.080, and the board shall enforce obedience to those bylaws, rules, and regulations.
- (2) Board members shall receive no compensation for serving on the board, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with the reimbursement policy for state employees. Board members who reside outside the Commonwealth shall not be reimbursed for out-of-state travel expenses.
 - (3) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville, except where inconsistent with the purposes of KRS 164.810 to 164.870.

➔Section 4. Whereas it is necessary for public postsecondary education institutions to make sound fiscal decisions and be able to take swift action based on those decisions, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden April 14, 2026.