

# **2019 OEA Annual Report**

KRS 7.410(2)(c)(8) requires the Office of Education Accountability (OEA) to prepare an annual report of the status and results of the annual research agenda and a summary of completed investigative activity to the Education Assessment and Accountability Review Subcommittee (EAARS).

## **Chapter 1**

### **Investigations**

Since 1990, under KRS 7.410(2)(4) and through an Investigations Division, OEA has carried out investigative duties. A division manager oversees all investigations. The division has five full-time and two part-time investigators.

OEA investigates a broad range of allegations, but some (such as board member interference in district personnel matters and issues related to hiring) are more common.

OEA conducts investigations after receiving written complaints. Complaints are submitted by mail, email, and phone calls to a toll-free hotline. With the help of the Office of Computing and Information Technology (OCIT), OEA maintains an online complaint form. While staff confers with individuals regarding many issues, any matter to be investigated must be put into writing. Each complainant is asked to provide as much written information about the alleged wrongdoing as possible.

Complaints come from sources including state agencies, local school board members, superintendents, principals, teachers, classified and certified employees, parents, and citizens. Often, the complainants identify themselves and provide sufficient information to allow investigators to discuss the allegations. Some complainants request confidentiality, and others are anonymous.

Although the number of complaints fluctuates over time, OEA receives daily communications expressing concerns or seeking information about local and state educational issues. Few communications result in an investigation. Frequently, OEA renders assistance by telephone or email. Resolution may require only helping the individual get in touch with the appropriate state or local authority. OEA staff attempts to resolve concerns without the filing of a formal complaint.

Often, though, the communication contains an allegation that Kentucky education law has been violated, and the complainant requests more involved participation or intervention by OEA. OEA requires a written complaint before an investigation will be initiated, but if the original contact is made by regular mail or email, that writing may suffice unless additional detail is needed.

OEA received 414 written complaints in 2019 (312 of these were anonymous). In 2018, OEA received 584 written complaints. Throughout the year, OEA reports to EAARS, as required by statute, an ongoing summary of the cases under investigation. Table 1.1 summarizes the investigative work conducted by staff during 2019.

**Table 1.1**  
**2019 Investigations**

	<b>Opened</b>	<b>Closed</b>	<b>Pending</b>
<b>Investigative</b>	20	40	31
<b>SBDM</b>	7	7	14
<b>Total</b>	27	47	45

**Statutory Duty To Investigate**

KRS 7.410(2)(c)(4) requires that OEA:

- Investigate allegations of wrongdoing of any person or agency, including but not limited to allegations of waste, duplication, mismanagement, political influence, and illegal activity at the state, regional, or school district level;
- Make appropriate referrals to other agencies with jurisdiction over those allegations.

For example:

KRS 620.030 requires that suspected child dependency, neglect, or abuse be immediately reported to the appropriate authorities;

Under KRS 156.132, the commissioner of education and the KBE are empowered to discipline, suspend, and remove district personnel and board members under sufficiently serious circumstances;

A local board member who is ineligible for office under KRS 160.180 due to such violations as nepotism, conflict of interest, or holding incompatible offices may be referred to the Office of the Attorney General for possible removal under KRS 415.050 and KRS 415.060; and

OEA may refer a certified employee, such as a teacher or administrator, to the EPSB for possible disciplinary action and revocation of certification under KRS 161.120.

- Make recommendations for legislative action to EAARS. Upon approval of EAARS, recommendations for legislative action shall be forwarded to the Legislative Research Commission (LRC); and
- Submit to EAARS, for each of its regular meetings, a report that summarizes investigative activity. The subcommittee may consider each report as it determines and in its discretion. Each report, and the consideration thereof by EAARS, is exempt from the open records and open meetings requirements contained in KRS Chapter 61.

KRS 7.410(2)(g) states that any state agency that receives a complaint or information which if accurate may indicate a violation of the Kentucky Education Reform Act (KERA) is required to forward that complaint or information to OEA. This provision makes OEA a state clearinghouse for education-related complaints. However, Sections 27 and 28 of Kentucky's Constitution separate the powers of the legislative branch (including OEA) and of the executive branch (the KBE, KDE, and EPSB.) Enforcement of the laws is an executive function.

KRS 7.420 requires that as part of any investigation pursuant to KRS 7.410, OEA must attempt to gather all relevant information before reaching conclusions or making public any findings. This must include providing the opportunity for the subject school district, agency, or individual to provide responsive information.

KRS 160.345(9)(b) provides that an affected party who believes a violation regarding school-based decision making has occurred may file a written complaint with OEA. OEA must investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education (KBE).

### **Receipt and Review of Complaints**

A written complaint is necessary to ensure that there is a reliable record of the issues that OEA is being asked to investigate. Once an issue is reduced to writing, OEA staff evaluates the situation before becoming involved. Part of the evaluation process requires a review of OEA files for any prior related cases or complaints. Staff can also compare the complaint to past communications that were received and evaluated, but determined to be insufficient to independently justify an investigation.

OEA decides whether an allegation warrants inquiry or investigation only after reviewing and considering several factors, such as

- Seriousness of situation alleged
- Specificity of the information provided

- Whether the complainant has firsthand knowledge or is instead repeating rumor or hearsay
- Whether there are other or similar complaints regarding the same issues in the same district
- Possible outcomes and possible corrective action
- Ability to prove the facts alleged
- Whether the allegation falls within the jurisdiction of another agency or organization
- Availability of willing witnesses

Past investigations have revealed a concern of complainants that they or someone close to them will suffer retaliation or negative repercussions if it is known that they provided information to OEA. The identity of the complainant is therefore shielded. However, it is not possible to guarantee confidentiality. Frequently, especially if the complaint is focused on a specific situation and the complainant has addressed the situation with the district previously, the source of the complaint may be quite obvious. However, under no circumstance does OEA staff release or verify the source of a complaint. Just as other investigative agencies rely on anonymous information and tips about violations of law and protect the identity of sources, OEA believes that the use of anonymously provided information and the protection against disclosure of a complainant's identity are worthwhile and necessary practices.

Preserving the confidentiality of sources is consistent with and contemplated by OEA's enabling legislation. KRS 7.410(3) provides that OEA investigations, records, and work products are privileged and confidential during the course of an investigation and until released by OEA. The Kentucky Office of the Attorney General has concluded that OEA has "virtually unfettered discretion" in maintaining confidentiality under this statute. OAG 98-ORD-149. KRS 7.410(3) provides the authorization for maintaining the confidentiality of sources and information. OEA exercises its statutory discretion and releases final versions of its investigative reports. However, OEA does not release the sources of complaints or other records.

### **Declining or Referring Complaints**

The manager of the OEA Investigations Division receives and reviews complaints, and helps to determine the scope of OEA involvement. OEA considers the subject and content of the complaint to determine what action may be required.

OEA may choose to not open an investigation. Such a decision may be based on the conclusion that the complainant is unreliable, that the issue would be more appropriately reviewed by another agency, or that the facts in the complaint are vague

or do not state a violation of law. If contact information has been provided, OEA notifies the complainant that no further action will be taken on the matter, but OEA keeps the complaint.

If the facts recited in the complaint support a claim of violations of the law but the allegation is more appropriately handled by another agency, OEA contacts the complainant (if possible) and refers them to the appropriate authority or requests permission to forward the complaint. Several situations generally require an automatic transfer:

- Concerns over accountability testing violations are referred to the Kentucky Department of Education (KDE) under KRS 158.6453.
- Special education issues are usually referred to KDE, as its Division of Learning Services is better suited to deal with such matters. KDE facilitates three separate processes (mediation; a formal written complaint; or a due process hearing) that may resolve special education disputes.
- Allegations of discrimination based on race, gender, or disability status are usually referred to the Kentucky Commission on Human Rights or the United States Office of Civil Rights.
- Complaints of violations of the state's open meetings and open records laws are often referred to the Kentucky Office of the Attorney General per KRS 61.800 through 61.884.
- Charges of criminal activity are usually referred to an appropriate law enforcement agency, such as local police, county sheriff, Kentucky State Police, or the Office of the Attorney General.
- Complaints of fiscal misconduct may be referred to the Kentucky State Auditor.
- KRS 620.030 requires that suspected child dependency, neglect, or abuse be immediately reported to the appropriate authorities. OEA does not interview students, and would not normally acquire firsthand knowledge of suspected mistreatment of a child.

On occasion, an allegation that is referred to another agency may be intertwined with educational concerns that OEA would normally address. In such an instance, OEA may conduct inquiry into the education-related topic and refer the remainder of the issue to the appropriate agency.

Occasionally, OEA receives a complaint addressing a matter that is already under consideration by another agency. If an agency with jurisdiction over the matter is taking action, OEA usually declines to open a case or will open a file to monitor (but not actively investigate) the matter addressed by the other agency. This practice prevents the duplication of effort and waste of taxpayer dollars that can occur when two

organizations perform the same work. For example, if OEA receives a complaint regarding a certified educator who is already subject to an inquiry by the Education Professional Standards Board (EPSB) on the same issue, OEA would decline to open a case. OEA also avoids participation in matters that are being investigated by law enforcement, so as not to duplicate effort and to avoid interfering with an ongoing criminal investigation.

Finally, OEA will refer a complaint to the local superintendent or principal if the issue appears best handled by the local district. At times, OEA may request that a district superintendent look into a complaint, deal with the matter in the superintendent's sound discretion, and advise OEA after the matter is resolved at the local level. In such an instance the facts, except the identity of the complainant, are forwarded to the district.

Sometimes OEA is contacted by a complainant who has a lawyer and is about to file or has filed a lawsuit regarding the subject matter of the complaint. OEA declines to become involved when litigation is underway. Whatever OEA might do by way of resolution in such a case would be overridden by the decision of a judge, jury, or administrative body. OEA does not investigate or resolve matters for the benefit of litigants.

OEA also declines to open a case if the complainant is seriously contemplating litigation. If legal action appears imminent, OEA avoids the matter for the same reasons it declines involvement when litigation is already underway. Sometimes a complainant will be represented by a lawyer who is guiding the complainant through the resolution of the complaint, but litigation is not contemplated. In those circumstances, OEA may open a case, since litigation is not planned and does not seem likely. There is no way to guarantee that any given complainant will not file a lawsuit after an OEA inquiry, but OEA attempts to stay out of matters that are, or appear to be, headed for court.

OEA also refrains from involvement if various other formal proceedings, short of a lawsuit, are pending. For example, if a grievance is pending in the school district, OEA does not open a case. Appropriate review of the matter will occur through that proceeding.

### **Opening and Investigating a Case**

Formal cases are opened as either a "school-based decision making (SBDM)" matter, which deals with issues associated with KRS 160.345, or an "investigative" matter, which deals with non-SBDM issues, including but not limited to local school board issues,

financial matters, and various teacher and student topics. It is possible for multiple issues in a complaint to be of both varieties, in which case the file will be categorized by the most predominant grievance. If deemed necessary, the complaint may also be split into two files.

Once opened, a case is normally assigned to two investigators, with one being designated as the primary or lead investigator. A more complex case or a case with numerous or more difficult issues may require the attention of more than two investigators.

In most matters, OEA investigators conduct an onsite visit to the school district. OEA staff interview persons with knowledge about the complaint, and those may include superintendents, board members, central office staff, principals, teachers, parents, SBDM council members, and classified employees. OEA does not interview students. In order to provide reasonable notice and to make sure that specific individuals will be present in the district for interviews upon the arrival of the OEA investigators, districts are notified about OEA visits in advance, usually three days beforehand. The subject matter of the visit is usually not disclosed; however, at times it is necessary to reveal some basic facts to arrange the necessary interviews. This type of notice and the provision of limited detail strike the necessary balance between being courteous to the interviewees and ensuring their availability for interviews without having a potentially detrimental effect on the investigation. Following a visit, supplemental information can be gathered by telephone contact or through the mail. If necessary, an additional onsite contact with the district will be made.

### **Final Reports and Recommendations**

Following an onsite visit and consideration of all relevant information, a preliminary investigative report is sent to the subject(s) of the complaint. This allows those who were investigated to review OEA's preliminary findings, conclusions, and proposed resolutions of the matter. Generally, a two-week period is given for any reply to the preliminary report. The reply is optional, and additional time is granted upon request. Any additional input received is considered before OEA issues a final investigative report. Final investigative reports are sent to the individuals who are the subjects of the inquiry, to the complaining party if known, and to the board of education or superintendent. If OEA does not substantiate any or all of the complaint, the report explicitly notes that finding.

Any complaints that are substantiated are specifically detailed and a resolution calling for corrective measures is contained in the final investigative report. Resolutions of substantiated complaints include requiring additional training in particular areas of

education law, amending or changing district or school policies, and supplying information to OEA in the future for the purpose of monitoring compliance with the law. Sections 27 and 28 of Kentucky's Constitution separate the powers of the legislative branch (including OEA) and of the executive branch (the KBE, KDE, and EPSB.) Enforcement is an executive function. However, under KRS 160.345, OEA is to resolve conflicts, if possible, and the vast majority of matters are resolved through training and other compliance activities.

OEA attempts to resolve all substantiated complaints by advising school districts and personnel of the appropriate action required to comply with the law. In circumstances where there is a demonstrated pattern of conduct that is detrimental to the implementation and functioning of SBDM law, that pattern constitutes a violation. This violation gives OEA the authority to make a referral to the Kentucky Board of Education (KBE) for possible reprimand. A second pattern of conduct constituting a second violation of SBDM law makes the individual subject to referral to KBE and also subject to possible removal or dismissal. KRS 160.345(9)(a), (d).

In non-SBDM cases where serious violations have been substantiated, OEA has the option to make a referral to an agency with jurisdiction to take appropriate remedial or punitive action. Under KRS 156.132, the commissioner of education and the KBE are empowered to discipline, suspend, and remove district personnel and board members under sufficiently serious circumstances. A local board member who is ineligible for office under KRS 160.180 due to such violations as nepotism, conflict of interest, or holding incompatible offices may be referred to the Office of the Attorney General for possible removal under KRS 415.050 and KRS 415.060. OEA may refer a certified employee, such as a teacher or administrator, to the EPSB for possible disciplinary action and revocation of certification pursuant to KRS 161.120.

## **Investigations and School-Based Decision Making Cases**

As previously noted, OEA separates the complaints it receives and the cases it opens into two broad categories: SBDM and investigative cases. Following is a discussion of the most commonly made and investigated complaints received and handled by OEA.

### **School-Based Decision Making Cases**

As of 1996, every public school in the state was required to operate with a SBDM council, unless exempted pursuant to statute. The overwhelming majority of schools have a SBDM council. KRS 160.345 governs the operations of school councils, which are



usually composed of the school principal, three teachers, and two parents of children who attend the school. Under specific circumstances, extra members may be elected to the council or the council may have a larger regular membership. Councils have been mandated by law for over 20 years and council members are required to undergo training to serve, but OEA receives frequent complaints that deal with the operation of councils.

**Elections.** KRS 160.345(2)(b)(2) provides that teacher representatives be elected by a majority of the teachers. Parents are chosen in elections conducted by the school's parent-teacher organization or by the largest group formed for the purpose of electing parent members. If no minority member is chosen by the teachers or by the parents, the school principal has the responsibility to ensure the election of minority members if the school has 8 percent or more minority enrollment as of the previous October. The statute clearly describes that the parents conduct the parent elections and the principal is responsible for the minority member elections. The statute does not provide specific instructions regarding who conducts or is responsible for teacher elections, and reflects only that teachers are elected by a majority vote of their peers.

OEA receives various complaints about elections, including concerns that principals are participating in teacher and parent elections. As stated above, principals are to play no role in parent elections, but the law is not specific with regard to teacher elections. It is OEA's position that it is best for principals to refrain from involvement in the teacher elections, so as to allow the teachers the opportunity to select their representatives in their own process. Having the teachers conduct their own elections also protects the principal from allegations of overreaching or trying to influence the outcome of the teacher elections.

**Personnel.** OEA receives a steady stream of complaints related to school personnel issues and alleging that school council prerogatives are infringed upon by principals and superintendents.

**Principal Consultation Before Hiring.** KRS 160.345(2)(h) requires that the school principal consult with the school council before filling personnel vacancies, except for the filling of a vacancy in the principal position. OEA often receives complaints that school staff (certified and classified) is hired by the principal or by the superintendent without the council being consulted. This consultation is a bedrock aspect of the Kentucky Education Reform Act. Failure to consult with the council is among the most frequent complaints OEA receives. When faced with a substantiated lack of consultation which has resulted in the hiring of an employee in violation of the law, OEA informs the relevant parties in the district about the requirements of the law. OEA often then

requires the district or school to provide documentation of compliance, such as correcting council policy to comply with the statute and copies of vacancy postings and minutes of council meetings that refer to the consultation process in hiring.

**Policies.** KRS 160.345(2)(i) provides that councils must adopt policies to be implemented by the principal in eleven important areas of school operation. The required policies include, but are not limited to, curriculum, assignment of staff and students, school scheduling, school space, discipline, extracurricular activities, alignment with state standards, and consultation in hiring. OEA receives complaints that school councils do not have policies in these areas, that policies exist but are ignored, or that policies exist but are deficient and incomplete. If these complaints are substantiated, OEA informs the district and the council about the statute; refers them to resources for suggested policies; and requires that the school forward newly enacted, revised, or amended policies for review by OEA.

**Budget.** KRS 160.345(3)(a) empowers school councils to make decisions that have budgetary impact. Councils are to determine the number of persons to be hired in each job classification, make decisions about textbooks and instructional materials, hire principals, and establish committees. The statute also requires that councils enact policies to deal with essential aspects of school functioning, as detailed above in the discussion of policies. In order to implement SBDM, the council must have influence over the school budget after money is allocated to the school by the board of education. OEA commonly receives complaints alleging that school councils are not approving the budget and recording that approval in their meeting minutes. When such complaints are substantiated, OEA informs the district and the school and, to ensure compliance, seeks future documentation of budget review and approval by the council.

**Open Meetings And Open Records.** As public agencies, the documents and activities of local school boards of education, central offices, schools, and school councils and committees are subject to the open meeting and open record provisions of KRS 61.800 through KRS 61.884. Open meeting and open record violations are sometimes reported to OEA.

- **Meeting Times and Notice.** Complaints often allege that regular school council meeting times are not established, that meeting times or council elections are held at times not convenient for the public, and that special called meetings are not conducted with the required special notice to members and the public. The statute provides that violations may be challenged through the Office of the Attorney General and the courts. OEA does not get involved in those proceedings. However, when OEA is made aware of and substantiates violations,

the district and the school are informed about compliance with the law and required to document that the statutes are followed in the future. Involvement by OEA is made necessary because council meetings without proper and lawful notice to members and the public impair the transparent operation of the council.

- **Closed Meetings.** Allegations are sometimes made that during a meeting the council moves into closed or executive session away from the public. KRS 61.810 authorizes such non-public sessions, but only under the circumstances specified in that statute. Substantiated complaints of this nature are followed by notification and the requirement of evidence of future compliance with the law.
- **Meeting Minutes.** KRS 61.835 requires that public agencies keep accurate minutes of votes and actions and that the minutes be available to the public by the next meeting time. Since boards of education and school councils cannot effectively function without accurate minutes to provide a reliable record of actions regarding consultation, budget, curriculum, and numerous other important school and district matters, OEA investigates complaints of inaccurate minutes and the failure to keep minutes. Substantiated violations are described and the board of education or school council is required to document future compliance.

## **Investigative Cases**

Complaints involving non-SBDM issues are categorized as investigative and include a variety of topics such as local board of education member eligibility, financial improprieties, teacher certification, and substitute teacher issues.

## **Board Of Education**

- **Member Eligibility.** KRS 160.180 provides the qualifications for local school board of education members. OEA often receives complaints that a candidate, a board member-elect, or a current board member has violated this statute. According to KRS 160.180(3), the Kentucky Office of the Attorney General has the authority under KRS 415.050 and 415.060 to file court actions to remove usurpers of a local school board office. A usurper is one who illegally holds such an office, whether ineligible to seek or hold the position or disqualified after assuming the post.
- **Nepotism.** Complaints regarding board membership may allege the employment by the school district of a relative of the board member, which is prohibited by KRS 160.180(2)(i). A relative is defined as the father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law of the

board member. KRS 160.180(1). Opinion of the Attorney General 92-160 interpreted the definition of relative as being a blood relative, excluding non-specified relationships by marriage. OEA investigated such complaints and then makes a referral to the attorney general regarding any ouster proceeding against the board member. This is consistent with KRS 7.410(2)(c)(4), the authority of OEA to investigate wrongdoing in the schools, and KRS 415.050 and 415.060, regarding power of the Office of the Attorney General to seek removal of usurpers. The ultimate decision to file or to not file a removal action rests with the attorney general.

- **Incompatible Offices.** A complaint may charge that a board member holds a position that is incompatible with school board membership and that therefore disqualifies the member pursuant to KRS 160.180(f). The list of incompatible offices is further described by KRS 61.080 and Kentucky Constitution Sections 165 and 237. If it is substantiated that a local school board member, who is considered a state officer, simultaneously serves as a city or county officer or employee, the board member is subject to removal by the Office of the Attorney General. Following a referral of such a matter by OEA, the attorney general then decides whether to seek ouster of the board member.
- **Financial Conflicts Of Interest.** OEA receives complaints that board members have financial conflicts of interest, which are prohibited by KRS 160.180(2)(g) and (3). Should OEA substantiate that a board member has an inappropriate direct or indirect interest or benefit in a matter for which board funds are expended, referral to the Office of the Attorney General for removal is possible. Kentucky case law and Opinions of the Attorney General have further defined these provisions of the law, creating some inclusions and some exceptions under the statute. Financial conflict cases are highly fact specific and require careful analysis.
- **Residency.** Complaints that board members are ineligible because they live outside of the school district they represent are not rare. Such cases require investigation and analysis under state law regarding eligibility to vote, as board members are required by KRS 160.180(2)(b) to be voters in the district they represent. Investigative findings are forwarded to the Office of the Attorney General for possible removal proceedings under KRS 415.050 and KRS 415.060.
- **Influencing or Attempting To Influence District Hiring.** KRS 160.170 prohibits board members from influencing or attempting to influence the hiring of any school employee, other than the superintendent and board attorney. Complaints charging a board member with involvement in personnel matters sometimes rise to the level of alleging improper attempts to influence or actually influencing hiring through board member contact with the superintendent, principal, or council members. Investigative findings may be referred to the Office of the Attorney General for review and disposition.

- **Financial Improprieties.** Complaints that schools funds are not handled appropriately include charges of carelessness and failure to follow proper procedures, up to and including allegations of outright theft. Such cases are handled carefully since OEA could uncover indications of criminal activity, which might in turn lead to a criminal investigation and prosecution by an appropriate law enforcement agency.
- **Outside Activity Funds.** Allegations of carelessness and failing to follow procedures often deal with the manner in which booster clubs handle money. 702 KAR 3:130, which includes accounting procedures commonly known as “the Redbook,” requires booster organizations to provide the school district with a proposed annual budget, a summary of expenditures at the end of the year, and a list of officers. OEA has limited authority over a booster club that maintains its money in a separate account outside the school system, but OEA can insist that the club obey the Redbook requirements. Vending machine profits at schools are often earmarked for a particular club or activity and can be a significant source of revenue. Accounts must be audited carefully to ensure that the proceeds reach the intended beneficiary. However, in cases where the procedure is not followed but funds are appropriately spent and accounted for, OEA seeks to secure compliance from boosters and those with access to the funds. Substantiated complaints of this nature are followed by notification and the requirement of evidence of future compliance with the law.
- **Travel Expenses.** OEA investigates irregularities in the reimbursement of travel expenses. Problems may include incomplete or wholly absent documentation, unclear reimbursement policies and credit card procedures, and reimbursement of spousal and other family member expenses.
- **Failure to Exercise Financial Oversight.** OEA has received complaints of local boards failing to approve all board expenditures at each monthly meeting. Failure of the board to exercise proper oversight over district finances can lead to inappropriate spending of district funds. Further, failing to review expenditures is an abdication by board members of the obligation to do their best to ensure the solvency and sound financial status of the school district. Board members in such cases are instructed to exercise better stewardship over the large sums of public money that they control.
- **Surplus Property.** OEA receives complaints alleging the failure to declare outdated and unused district property as surplus and to dispose of it according to law in the best interest of the district. Empty buildings that serve no purpose except to cost the district liability insurance premiums may sit unoccupied for years without any plan for revitalization and use or disposal. Buildings and lots can be assessed for value and then sold at auction, through bidding and even private sale. Property located in small towns or rural areas may not have great

commercial or residential value, but the sale of such properties may at least relieve the district from the burden of maintenance and insurance. OEA works with the school district to achieve compliance with the law in these circumstances.

**Boundaries and Residency.** When it is unclear which school district has the responsibility to educate a child who resides in an area where there is a question about the boundaries, OEA will try to assist the interested parties. This has occurred in rural areas where the line between districts is cloudy. Each district may claim that the child lives in the neighboring district and that it is the responsibility of the neighboring district to educate that child. Questions may also arise about the residency of a child for education purposes when the child of divorced or separated parents actually splits living time between the parents and different school districts. In all of these matters, OEA attempts to determine the district in which the child resides and to have the child enrolled in the appropriate school system.

**Certification.** OEA receives allegations that districts are hiring emergency certified or alternatively certified teachers instead of hiring fully certified teachers. While emergency certified individuals may be hired to teach, they may be employed only upon a showing that there were no other qualified teachers available. If OEA substantiates that an emergency certified applicant has been inappropriately hired over a fully certified person, the district or school is notified about proper hiring practices and required to provide evidence of future compliance with the law.

No violation has occurred if the person hired over a fully certified teacher is alternatively certified. Alternatively certified individuals are those who simultaneously have a commitment from a school district for employment and acceptance into a college alternative program for certification in the area in which the person will teach. The EPSB considers alternatively certified persons to be of equal status with regularly certified teachers, and OEA follows that protocol. Since a district is not required to state that no certified teachers were available before hiring an alternatively certified individual, districts are free to employ alternatively certified individuals instead of certified teachers without violating state law.

OEA frequently utilizes the expertise of the EPSB when analyzing complaints concerning certification.

## Chapter 2

### Research

KRS 7.410 requires EAARS to adopt an annual research agenda for OEA. The agenda is assigned and carried out under the direction of EAARS. The process involves discussion of possible topics between OEA staff and members of EAARS. Once the topics have been narrowed, a summary of the suggested topics is presented to EAARS for consideration and adoption. OEA staff conducts research throughout the year and reports studies to EAARS when the studies are completed. OEA's Research Division consists of a manager, four full-time research analysts, and one part-time research analyst.

In 2019, OEA completed the following studies. Each has been published and can be found on the LRC publications website.

#### **Kentucky District Data Profiles School Year 2018; Research Report No. 459**

This report provides a comprehensive overview of all public school districts operating in the state during 2018. The report includes longitudinal data covering district trends, finance, staffing, and school performance from fiscal years 2015 to 2018. The Overview and Trends section contains district data on school membership, end of year adjusted average daily attendance, student demographics, educational attainment, and school discipline. The Staffing Data section reports district data on certified and classified staff, and full-time equivalent teachers. Additional data on average salaries, years of teaching experience, and rank are provided. The Finance section covers per-pupil current expenditures and revenues by source. Each district's fund balance percentage and end of year general fund balance are reported. The Performance section presents data from kindergarten readiness to ACT results, Advanced Placement exams and trends, and selected components of the accountability system.

#### **Revenues And Expenditures For Career And Technical Education In Kentucky; Research Report No. 461**

In this report, career and technical education (CTE) refers to program offerings designed to develop knowledge and skills that are transferable to specific industry sectors. These programs are made available to Kentucky students through state-operated area technology centers (ATCs), local area vocational education centers (LAVECs), and comprehensive high schools. Many students also attend dual-credit and other classes in the Kentucky Community and Technical College System.

The focus of this report is the state-appropriated revenues and expenditure allocations for the 53 ATCs and the 42 LAVECs used by students across the commonwealth. This report provides an analysis of state-appropriated funds to these two types of centers and how these funds have been used during school years 2009 to 2018.

A more detailed analysis of state-level revenues and expenditures is provided for the 2018 school year. Total state-appropriated funding per student for both ATCs and LAVECs was calculated for the 2018 school year. Total state funding was divided by an unduplicated CTE student count for each type of center. ATCs received approximately \$45.3 million from the combination of the Kentucky Department of Education (KDE) general fund and secondary vocational Support Educational Excellence in Kentucky (SEEK) appropriations. Total state appropriations per ATC student were \$2,032.91 in 2018. LAVECs received approximately \$11.8 million from the KDE general fund. Total state appropriations per LAVEC student were \$396.53. ATCs received, in terms of total dollars, approximately \$3.80 for every \$1 appropriated to LAVECs. The ratio when calculated per student favored ATCs at a rate of \$5.10 for every \$1 per LAVEC student.

The Kentucky Department of Education provided 10 years of total CTE revenue data. Total CTE revenues were adjusted for inflation using the Consumer Price Index to determine lost purchasing power from all funding sources. When accounting for inflation, total funding for all CTE in Kentucky would have required an additional \$18 million (22 percent increase) in school year 2018 to match the purchasing power of CTE funding appropriated during school year 2009.

An analysis of the state funds appropriated for both ATCs and LAVECs, and of the unique statutory and regulatory frameworks that exist for the two types of technology centers in Kentucky, yielded the following conclusions.

- The 20 percent SEEK allocation required by 702 KAR 1:130 is generated according to the total number of full-time equivalent students (FTEs) per ATC, and it is distributed to the home district of ATCs for “retirement of debt service and building maintenance”; however, KDE has approved use of these funds for equipment and supplies, as well as allowing districts to carry revenues to future years to pay for equipment, building maintenance, security, and debt payments. Staff analysis conducted on ATC expenditures also found that 25 percent of these funds were not used for debt service and building maintenance but were instead used for school-based decision-making council (SBDM) and non-SBDM instructional salaries and supplies.
- Districts that house the ATCs receive additional facility funding to support their ATC building, but districts with LAVECs do not.
- Staff analysis of a comparison sample group of ATCs and LAVECs showed that students who attended those ATCs cost districts nothing to very little in terms of local



funding, while the students attending those LAVECs cost districts approximately \$1 million in local funding.

- Vocational transportation included in the secondary vocational education budget totaled \$2.4 million annually. These funds covered 33 percent of the amount districts spent on vocational transportation in 2018.
- Prior to 2014, LAVEC schools were included in the biennial budgets as a line item. Since then, funding allocations provided by the General Assembly for LAVEC schools are included in the annual KDE budget allocation. Although KDE has no statutory or regulatory obligation to provide a specific amount of annual funding to LAVEC schools, the department has continued to distribute \$11,843,500 each year to the LAVEC institutions.
- The KDE general fund dollars allocated for ATCs are also not included in the biennial budgets as a line item.
- KDE is required to compute the FTE counts to distribute LAVEC funding according to statutory and regulatory formulas. Since 2014, KDE has used an internal formula to calculate FTEs at LAVECs. This has been acknowledged by KDE at meetings of the 2019 CTE Task Force. Eight schools currently provide CTE at centers that do not receive any state-appropriated CTE funding. These schools have requested LAVEC funding from KDE but have not received any funding for the 2020 school year. KDE also provided a list of unfunded pathways at existing LAVECs. Estill County is constructing a technology center but has yet to secure state-level operational funding.

The following major conclusions pertain to the estimated costs to fund these schools and pathways.

- KDE estimates that \$610,000 in additional funding is needed for operational costs for the Estill County technology center.
- Most recent data shared by KDE shows there are eight schools that have open requests to be designated a LAVEC. Estimated total funding needed to fund these schools is more than \$1.3 million, according to total weighted FTE projections.
- There are also 28 Category 2 pathways and 29 Category 3 pathways that are not funded within existing LAVECs. Estimated total funding needed to fund these pathways is approximately \$1.4 million, according to total weighted FTE projections.
- There are 78 comprehensive high schools that could meet the qualifications to request LAVEC funding status with KDE. As of August 2019, none of these schools have made this request. According to 2020 FTE calculations from KDE, an estimated \$19.4 million in additional LAVEC funding would be required to fund these schools.

The data provided by KDE does not include the estimated FTE or estimated additional funding needed for Taylor County or the Ignite Academy.

An examination of expenditure reports for all 53 ATCs showed that expenditures paid from the KDE general fund for ATCs accounted for approximately \$24.2 million (approximately 57 percent) of total expenditures for these centers during the 2018 school year. Expenditures for ATCs are paid from the KDE general fund at the full discretion of KDE. There exists no statutory or regulatory framework that states the methodology for distribution of these funds. ATC expenditures paid from the KDE general fund exhibit considerable variation when calculated per FTE and per total student count. Staff analysis concluded that the FTE counts are distorted by the fact that in some cases the districts that house the ATCs have local CTE classes in the ATC buildings and KDE is counting these students in final FTE calculations. The SEEK appropriation for ATCs should be distributed according to 702 KAR 1:130. The regulation provides the FTE formula for distribution. In budget allocations for ATCs, the FTE amounts for each center were equal in terms of final allocation (KY Tech Share + 20 percent SEEK appropriation).

Several accounting discrepancies were discovered during examination of AFRs for districts with LAVECs and ATCs. Analysis identified the following factors as sources of those discrepancies:

- The KDE chart of accounts requirements for capturing Reserve Officer Training Corps program costs
- KDE chart of accounts requirements for capturing SBDM program costs
- KDE not reporting the revenues and expenditures for ATCs on the finance survey (F-33) to the National Center for Education Statistics
- KDE and districts not reporting all CTE teachers properly
- District inconsistencies in reporting expenditures at school location codes on AFRs and professional staff data reports (PSDs)
- Districts not correctly coding CTE expenditures to the 300 program series on AFRs

Districts are required to update facility plans every 4 years. These plans include needs for CTE buildings and are used to determine unmet facilities needs by district. As of February 2019, 25 districts were determined to need new CTE buildings, at an estimated total cost of \$183 million. Another 66 districts need CTE building upgrades with an estimated total cost of \$211 million. All told, unmet need for CTE buildings totals approximately \$394 million.

The Office of Education Accountability (OEA) reviewed the 2018 PSD files to determine how many career and technical education teachers were employed in each district in Kentucky. There were only 168 career and technical education teachers reported in 31 districts, there are 42 districts that receive LAVEC funding, and there are another 6 that have CTE-approved programs not receiving LAVEC funding. Further review showed that

some career and technical education teachers are coded as a regular high school teachers. A review of the 2018 Local Educator Assignment Data report showed that there were 3,157 teachers teaching a career and technical education class in Kentucky. This is much higher than the 180 teacher count that was reported on the PSD file, which KDE uses to submit the number of career and technical education teachers to the United States Department of Education (USED). Based on the number of CTE teachers reported, it would also appear that, in its reports to USED, KDE is not including CTE teachers who are teaching at the state-run area vocational centers. According to KDE, there were 385 career and technical education teachers employed in ATCs in school year 2018. By not including the state-employed career and technical education teachers, the reports also miscalculate the student/teacher ratio at high schools.

Special education teachers and aides are more likely to be employed at a stand-alone or LAVEC center than at an ATC center. Of the 53 ATC centers, only 6 reported special education expenditures on district AFRs in 2018.

An analysis of ATC teacher salaries relative to LAVEC district teacher salaries was conducted for school year 2018. OEA staff found that the majority of beginning ATC teachers earn more than beginning district-employed teachers, but the salary schedules for teachers with 20 years of experience show that the majority of district-employed teachers earn more than those teaching at ATCs for all ranks.

## Recommendations

### Recommendation 2.1

The School Facilities Construction Commission should work in collaboration with the Kentucky Board of Education and the Kentucky Department of Education to promulgate an administrative regulation that identifies the methodology for equating the average daily attendance of area technology centers with the average daily attendance of other local school districts to ensure that these centers receive a proper share of Kentucky Education Technology System funding.

### Recommendation 2.2

The Kentucky Department of Education should comply with all provisions of 702 KAR 1:130 for area technology center funding as written, or the Kentucky Board of Education should align 702 KAR 1:130 to reflect current practices.

### Recommendation 2.3

If the General Assembly wants the Kentucky Department of Education (KDE) to continue allocating funds for secondary career and technical education programs at the Kentucky

Community and Technical College System, then the General Assembly should include language in subsequent budget bills directing KDE to do so.

#### Recommendation 2.4

The General Assembly should change the local area vocational education center (LAVEC) categorical funding formula in KRS 157.069 to reflect the proper methodology of computing Category II and Category III LAVEC full-time equivalent students.

#### Recommendation 2.5

The Kentucky Board of Education should revise 705 KAR 2:140 to reflect the actual methodology used to distribute funding to local area vocational education centers.

#### Recommendation 2.6

The Kentucky Department of Education should determine final allocations of local area vocational education center funding by January 1 of each year in accordance with 705 KAR 2:140, sec. 5(2), or the Kentucky Board of Education should amend 705 KAR 2:140, sec. 5(2) to reflect current practices.

#### Recommendation 2.7

The Kentucky Department of Education should fund new career and technical education programs at existing local area vocational education centers in accordance with 705 KAR 2:140, sec. 5(2), or the Kentucky Board of Education should amend 705 KAR 2:140, sec. 5(2) to reflect current practices.

#### Recommendation 3.1

The Kentucky Department of Education (KDE) should review the chart of accounts and change how expenditures paid by ROTC, school-based decision-making councils, and school boards are captured so that all schools are reporting career and technical education expenditures to program series of 300. In addition, KDE should work with district staff to ensure that all career and technical education expenditures are coded correctly on the annual financial reports.

#### Recommendation 3.2

The Kentucky Department of Education (KDE) should ensure that districts' A2 and area technology center (ATC) career and technical education school expenditures are coded to a KDE A2 or ATC location code or a district-assigned school number.

#### Recommendation 3.3

The Kentucky Department of Education (KDE) should work with districts to ensure that all career and technical education (CTE) teaching and administrative staff are coded

correctly on the professional and classified staff data reports. In addition, when reporting the total number of CTE staff to the United States Department of Education, KDE should include the total number of CTE teachers, administrators, and other staff working at state run area technology centers.

#### Recommendation 3.4

The Kentucky Board of Education should promulgate regulations concerning the distribution of area technology center (ATC) funding. These regulations should address both general fund and Support Education Excellence in Kentucky funding for ATCs.

### **Teacher Shortages And Supports For New Teachers; Research Report No. 463**

Teacher shortages occur when the supply of available and qualified teachers cannot meet the demand for teachers with specific subject and grade level certifications or when there are fewer high-quality applicants than there are open positions. Under these circumstances, teaching positions may be unfilled, or they may be filled by teachers with emergency or alternative certificates, which can lead to teacher turnover. Teacher turnover is defined as the percentage of teachers from the previous year who did not return to teach at the same location in the current year.

This report reviews teacher certificates, teacher shortages, teacher turnover, and supports for new teachers. In this report, teacher certificates are used as both direct and indirect indicators of teacher shortages, both overall and by subject and level between school years 2010 and 2019. The report finds that a relatively small percentage of teachers held emergency certificates and alternative certificates. However, reports from principals reveal that teacher shortages are occurring not only in the number of available teachers but also in the quality of teachers. These shortages may not appear in the certification data for several reasons. Principals reported addressing teacher shortages by eliminating classes, combining classes, increasing class sizes, offering online courses, renewing nontenured, ineffective teachers, and having teachers teach during their planning period. In addition, principals reported hiring lower-quality applicants rather than having unfilled positions. These strategies would not appear in the data as an indicator of shortages because they do not involve a teacher with an emergency certificate or an alternative certificate.

The number of teachers with emergency certificates was roughly the same in school year 2019 as in school year 2010, but the number of teachers with alternative certificates increased by 7.9 percent. Between these years, 96.9 percent of teachers with emergency certificates held their emergency certificate for only 1 year. In 2019, subject areas with

relatively high percentages of teachers certified through alternative routes or teachers holding emergency certificates included

- preschool,
- exceptional children,
- chemistry,
- high school general science,
- biology and life sciences, and
- physics.

Over the past 10 years, average annual teacher turnover was 17.1 percent at the school level. However, teacher turnover tends to decrease as the geographic area of reference increases, because teachers may move among schools within districts, regions, or the state. Schools with lower math and reading Kentucky Performance Rating for Educational Progress proficiency rates tended to have higher teacher turnover, higher percentages of minority students, higher percentages of students in poverty, and higher percentages of teachers with 4 years of experience or less, suggesting that student outcomes are related to school qualities, including teacher turnover.

Analysis of 2017 Teaching, Empowering, Leading, and Learning Survey data revealed that teachers who reported planning to continue teaching at their current school were more than twice as likely to say that their school was a good place to work and learn as teachers who planned to teach in a different school or district. In addition, teachers in schools with lower turnover were more likely to rate their schools positively and less likely to report immediate plans to leave their school.

A survey by the Office of Education Accountability asked principals about their experiences with teacher shortages, teacher turnover, and supports for new teachers. Common themes emerged. Principals reported that when turnover is high, schools have difficulty carrying out organizational goals and building relationships with students, parents, and the community. High quality replacement teachers are often limited, and schools must spend time and resources training new teachers. Student achievement, disciplinary issues, and school culture can be negatively affected by new and inexperienced teachers, although some principals reported that turnover was beneficial to their school and allowed for a positive culture shift.

Several subject areas have potentials for future shortages. Chemistry, high school mathematics, physics, engineering technology, and world languages were reported by more than half of school principals as having no applicants or no satisfactory applicants in the most recent school year and fewer or considerably fewer applicants compared to 5 years ago. More than 20 percent of current teachers in these subjects have more than

20 years of experience and will be eligible for retirement in the next few years. These were also areas where teacher preparation programs produced fewer graduates.

Principals reported different strategies in addressing teacher shortages. Some principals reported eliminating a class or classes, most commonly world languages. As was the case in addressing teacher shortages, some principals avoided eliminating classes by combining classes, increasing class sizes, switching to online courses, renewing ineffective, nontenured teachers, having teachers teach during their planning period, and hiring emergency-certified, out-of-field, or long-term substitute teachers.

Principals reported that insufficient salary and benefits compared to private industry was an extreme barrier to recruiting and retaining teachers. A lack of qualified candidates for a particular subject and a lack of qualified candidates in general were also barriers. Approximately half of principals reported that qualifications for some subjects present a challenge to recruiting teachers, including math, science, exceptional children, and health science, particularly the long-term care requirement. Many principals prioritized recruiting and retaining teachers and have policies, practices, strategies, and advantages to do so, including supports for new teachers.

The report makes two recommendations:

#### Recommendation 2.1

In publishing critical shortage areas and regions approved by the United States Department of Education, the Kentucky Department of Education should also consider publishing the methodology and associated data used to determine critical shortage areas.

#### Recommendation 2.2

The Kentucky Department of Education should consider a method to differentiate between positions that are open and those that have been unfilled for a long period of time in the Kentucky Educator Placement System.

### **Career And Technical Education Enrollment And Subsequent Employment By Sector; Research Report No. 464**

Career and technical education (CTE) links the teaching of academic content with the skills and abilities that will be required of graduates when they enter the workforce. In recent years, state and national policy makers have focused on increasing alignment of high school CTE with workforce demand in a quickly changing economy. Educators now have unprecedented access to labor market data that allows for identification of specific

occupations that will be in demand, along with the skills and education levels required for those occupations. They are working with industry leaders to promote CTE pathways that are aligned with these in-demand occupations.

This report uses data from the Kentucky Center for Statistics to follow high school graduates from the graduating classes of 2013, 2015, and 2017 who have completed CTE pathways in specific program areas into postsecondary education and the workforce. It looks for relationships between CTE pathway completion and attainment of industry certification in high school, continuing postsecondary education, and wages in different workforce sectors.

The report focuses largely on those CTE program areas that are aligned with workforce sectors that the Kentucky Workforce Innovation Board has identified as high wage and high demand (HWHD):

- Business and information technology
- Health care
- Construction
- Advanced manufacturing
- Transportation and logistics

It reports outcomes for CTE pathway completers in these HWHD program areas as well as outcomes for graduates completing pathways that have not been identified as HWHD but are common in Kentucky high schools, including agriculture, law/public safety, and human services.

The report shows wages for CTE pathway completers at various levels of continuing postsecondary education but focuses largely on graduates who have entered the workforce with no postsecondary education. Two-thirds of the new jobs projected for Kentucky between 2018 and 2022 do not require postsecondary education and, historically, most high school graduates in the commonwealth have entered the job market without a postsecondary degree or credential.

### Major Findings

The report shows clear and continuing wage premiums for CTE pathway completers versus noncompleters in almost every job sector, along with higher rates of labor market participation.

Career pathways are coherent sequences of at least four academic and technical courses relevant to a job sector; they form the basis of the CTE instructional experience for



students. Courses within individual pathways are designed to lead to industry certification or preparation for ongoing education.

These wage premiums are greatest in the years immediately following graduation and for graduates who do not earn a postsecondary degree or credential. CTE wage premiums persist for many years following graduation, however, and are present at every level of postsecondary education.

The report shows higher wages for CTE pathway completers with skills that prepare them for work in the manufacturing, construction, and transportation sectors. Of these workforce sectors, the highest wages are in the manufacturing sector. The supply of workers in the higher-wage sectors has not yet met demand. For example, while over 8 percent of the jobs projected for 2018 to 2022 are in the manufacturing sector, less than 3 percent of graduates complete manufacturing pathways.

CTE completion in manufacturing, construction, and transportation is uneven across the state, depending on

- geographic region;
- whether students receive CTE in comprehensive high schools, state-operated area technology centers (ATCs) or local area vocational education centers (LAVECs); and
- student gender or race.

In 2018, for example, more than one-third of districts in the commonwealth—including Jefferson and Fayette Counties—had few or no graduates (less than 1 percent) completing manufacturing pathways. ATC students are much more likely than LAVEC students to complete pathways in manufacturing, construction, and transportation. Few comprehensive high schools offer these programs.

CTE completers in the remaining HWHD program areas earn less than those in manufacturing, construction, and transportation and often less than those in pathways that are not considered HWHD, especially agriculture. Given that health pathways have seen the largest increase in recent years and had the greatest enrollment in 2019, it is notable that most health pathway completers do not earn a college degree and those working without a college degree earn less, on average, than CTE noncompleters. Whereas graduates in manufacturing, construction, and transportation earn relatively high wages even without any additional postsecondary education, health program pathway completers generally earn higher wages only after earning an associate's degree or above. For the relatively higher investment in health versus other CTE program areas to yield benefits for graduates and for the health industry, many more health program completers must earn postsecondary degrees of associate or above.

Current limits in the number of postsecondary health enrollment slots available may be one factor that limits this potential.

Given the relatively low projections for jobs in the agriculture sectors and the relatively high numbers of graduates completing CTE agriculture programs, it may seem surprising that CTE agriculture pathway completers earn wages that are comparable to or greater than those in HWHD program areas. The data suggest that skills and abilities learned in agriculture pathways may be transferable to many of the higher-wage sectors. Principals and superintendents interviewed or surveyed for this study expressed discontent about the relatively low funding for or emphasis placed on agriculture and some other CTE programs for which they saw local need.

The report shows much smaller CTE wage premiums for female students than for male students, for federal free or reduced-price lunch program-eligible students than for ineligible students, and for black students than for white students.

CTE performance-based assessments—industry certificates or Kentucky Occupational Skill Standards and Assessment exams—are also associated with higher wages, especially for pathway completers. Data from 2017 graduates indicate lower wage premiums for graduates who pass performance-based assessments but do not complete CTE pathways. The commonwealth’s previous accountability system for districts and schools incentivized schools to ensure that students completed at least two courses within a CTE pathway, but the state’s current accountability system does not.

#### Considerations For CTE Policies And Programs

The report provides the following general areas for consideration in the crafting of CTE policies or programs.

#### Expanding Access To Higher-Wage Pathways Among Kentucky Districts And Student Groups

Graduates completing CTE programs in the higher-wage program areas are more likely to work in higher-wage sectors and, on average, earn more than other graduates in those sectors. Access to higher-wage CTE programs is low for many students participating in CTE in comprehensive high schools or LAVECs. The relatively higher concentration of manufacturing, construction, and transportation pathways in ATCs versus LAVECs and comprehensive high schools likely reflects differences in the way CTE is funded in these settings. ATCs receive approximately five times as much state funding per pupil each year as do LAVECs. Costs are generally much higher for starting up a pathway in manufacturing, construction, or transportation than for doing so in

business or health sciences. In addition, female and black students complete these higher-wage pathways at lower rates than do male and white students.

#### Local Decision Making

OEA site visit and survey data indicate frustration of local leaders with limitations put on pathways that can be offered based on what is considered HWHD at the state level. Data in the report show that wages in some of the pathways that are not considered HWHD—agriculture pathways, most specifically—can often surpass those in the health and business program areas. Data in this report also raise the concern that CTE opportunities offered to high school students may not always be in line with workforce demand and greatest opportunities for high school graduates.

The Agricultural Power, Structural, Technical Systems pathway is currently labeled HWHD for purposes of additional points in the accountability system, but other agriculture pathways are not and may not be approved for ATCs.

#### Use Of Outcome Data To Evaluate Programs

This report provides strong evidence of likely positive effects of the state's recent efforts to expand access to pathways in manufacturing, construction, and transportation. It also illustrates that workforce outcomes for CTE graduates in other pathways may not always reflect desired outcomes. The General Assembly may wish to periodically review data on the relationship between CTE pathways offered and workforce outcomes. In addition, the General Assembly may wish to request studies that track the postsecondary outcomes of graduates who are being considered transition ready in the current accountability system. Some districts, in response to the current policy incentives, might elect to reduce the number of courses offered in individual pathways in favor of increasing the number of classes that might lead to industry certificates in different program areas. It is unknown whether graduates who earn industry certificates or pass state-approved exams without completing pathways can expect the same wage benefits.

### **An Overview Of School Counselors In Kentucky; Research Report No. 465**

Through 2019 Regular Session Senate Bill 1, the 2019 General Assembly directed the Office of Education Accountability (OEA) to study the use of school guidance counselors' time in schools. In addition, the legislation requires superintendents to report to the Kentucky Department of Education the number and placement of school counselors in the district and to include the source of funding for each position, as well as a summary of job duties by each counselor and the approximate percent of time devoted to each duty over the course of the year. This information is due no later than November 1 each

year. The language in KRS 158.4416(3)(a) from SB 1 requires each school district to employ at least one school counselor in each school with the goal of having one school counselor for every 250 students and for 60 percent of that counselor's time to be spent in direct services to students.

Some concerns are raised in this report:

- The statute is effective "[b]eginning July 1, 2021, or as funds and qualified personnel become available." This means that the statute may have no effective date.
- The term school is not defined further in the statute, which could result in requiring school counselors at vocational schools, alternative schools, etc. Students at these schools may often be served by school counselors at other locations, and these schools often serve a small number of students.
- One counselor for every 250 students is a goal; it is not clear whether it is also a requirement. It is also not clear whether the statute intended there to be one full-time equivalent school counselor per 250 students.
- It is not clear whether the goal of having school counselors spending 60 percent of their time school on direct services to students is also a requirement.
- The term direct services to students is not defined in statute or regulation. Further clarification may be helpful.

In order to facilitate superintendents' statutorily required data submission, the Kentucky Department of Education provided a survey to superintendents that included typical and atypical activities for elementary, middle, and high school counselors. The survey had superintendents report the data by school level (elementary, middle, and high school) instead of at the individual counselor level. The survey alone does not meet the requirements of the statute because it was not collected for each counselor.

OEA offers two recommendations concerning the collection of data.

#### Recommendation 2.1

The information sent to the Kentucky Department of Education (KDE) by superintendents should include a summary of job duties and work undertaken by each counselor and the approximate percentage of time devoted to each duty over the course of the year as required by KRS 158.4416. The current survey utilized by KDE does not meet the statutory requirement.

#### Recommendation 2.2

The term direct services to students should be defined more precisely through statutory or regulatory language. In the 2018-2019 school year there were 1,391 school counselors working in A1 schools. In addition, another 98 school counselors were

working in career and technical education centers, alternative schools, special education schools, or the district's central office, or in some cases working districtwide. An additional 1,156 counselors would need to be hired to reach the goal of 250 students per counselor. The associated cost would be approximately \$93 million each year. Kentucky's average student-to-counselor ratio was 457.8 to 1. The average student-to-counselor ratio was 460 to 1 in elementary schools, 458 to 1 in middle schools, and 404 to 1 in high schools. Comparing the diversity of school counselors to teachers, counselors are 87 percent female and 92 percent white, while the teaching population is 78 percent female and 95 percent white. Districts pay 96 percent of school counselor salaries from districts' general funds. As of 2019, 14 percent of current school counselors can retire with at least 27 years of service; another 32 percent have 20 to 26 years of service. Over the last 3 years, approximately 264 candidates completed their school counseling degree each year. During that period, on average, 132 school counselors left school counseling each year.

When grouping schools by poverty, using the percentage of students qualifying for free and reduced-price lunch, there is no difference in the average student-to-counselor ratio of 478:1 for both the 0 to 34.99 range and the 35 to 49.99 range. The data does show that counselors in schools with poverty rates above 75 percent have an average caseload of 43 fewer students than counselors in the lowest-poverty schools.

In 2019, 467 school counselors (57 percent) reported that they spent less than 60 percent of work time on direct services to students. There are differences in the amount of time spent on specific tasks across all levels of job duties. The average time spent on academic counseling is 3.5 percent for elementary school counselors and 25.2 percent for high school counselors. On average, elementary school counselors spend almost twice as much time as counselors in all other levels on student personal/social development.

Superintendents reported on the OEA survey that their district hires or contracts with staff who perform some school counseling duties. There were 137 superintendents who responded to this question.

- 111 districts reported hiring a total of 284 school psychologists.
- 46 districts reported hiring a total of 85 school social workers.
- 93 districts reported a total of 160 college and career coaches.
- 68 districts reported a total of 183 positions that are considered other qualified mental health professionals as defined in KRS 202A.011.

Some superintendents mentioned that they have free access to mental and behavior programs outside of the school district at no cost to the district.

School guidance counselors are included under the definition of instructional leader according to KRS 156.101(2) for the purpose of training hours under the program of the Effective Instructional Leadership Act (EILA). KRS 156.101 requires the Kentucky Board of Education to establish specific criteria for implementing EILA for public school employees holding valid certificates and performing responsibilities in a position for which an administrative certificate is required. The criteria were codified in 704 KAR 3:325, and the training must be comprehensive in nature and shall meet identified needs based upon the personnel evaluation, the individual professional growth plan, and self-assessments of the instructional leaders. The required training has to be approved by the Kentucky Board of Education, and instructional leaders must complete no fewer than 21 participant hours of instruction annually. Almost half the school counselors surveyed reported participating in less than 21 hours of professional development related to their job duties as a school counselor in 2019. In addition, corrections are needed for 704 KAR 3:325 to address mentions of two regulations that do not currently exist.

OEA offers two recommendations concerning EILA credit for school counselors.

#### Recommendation 2.3

The Kentucky Board of Education should update 704 KAR 3:325 to address incorrect references to two regulations.

#### Recommendation 2.4

School districts, with support and guidance from the Kentucky Department of Education, should comply with 704 KAR 3:325 and ensure that school counselors are getting at least 21 hours of training each year related to their job duties as a school counselor.

#### 2020 Approved Study Topics

The annual District Data Profiles, a one-stop source of comprehensive district-level education data, including comparative data for all districts.

Facilities- This study will examine the process for completing facilities upgrades in Kentucky's public schools. It will look, in particular, at how facility upgrade projects are prioritized and funded. The study will also report how money is allocated for facilities upgrades and whether the process is effective.