

2024 OEA Annual Report

KRS 7.410(2)(c)8. requires the Office of Education Accountability (OEA) to prepare and submit an annual report, including a summary 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).

Since 1990 OEA has carried out duties codified in KRS 7.410(2)(c). The statute sets out various duties to perform under the direction and oversight of EAARS. Two main responsibilities include investigation and duties related to research. The statute in part reads, “Investigate allegations of wrongdoing of any person or agency, including but not limited to waste, duplication, mismanagement, political influence, and illegal activity at the state, regional, or school district level;...” and, “Upon and under the direction of the Education Assessment and Accountability Review Subcommittee, conduct studies, analyze, verify, and validate the state assessment program....”

Chapter 1

Investigations

Since 1990, under KRS 7.410(2)(c)4. and through an Investigations Division, OEA has carried out investigative duties under the oversight of a division manager. The division currently has four full-time investigators, while in 2024, the division had five full-time and one part-time investigators.

OEA conducts investigations only after receiving written complaints. While complaints are submitted by mail, email, and fax, a majority of the complaints are submitted using OEA’s online complaint form. With the help of the Office of Computing and Information Technology (OCIT), OEA maintains the online complaint form and also operates a toll-free hotline.

Complaints come from multiple 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.

OEA receives phone calls expressing concerns or seeking information about local and state educational issues. Resolution may require only helping the individual get in touch with the appropriate state or local authority, as OEA staff attempts to resolve concerns without the filing of a formal complaint. If the communication contains an allegation that Kentucky education law has been violated, that individual is then instructed to submit a formal complaint in writing, providing as much information about the alleged wrongdoing as possible so OEA can determine if an investigation should be initiated.

OEA received 738 written complaints in 2024 (366 of these were anonymous). In 2023, OEA received 805 written complaints. OEA has received 329 written complaints in the first half of

2025. 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 2024.

Table 1.1
2024 Investigations

	Opened	Closed	Pending
Investigative	24	18	22
SBDM	7	10	4
Total	31	28	26

Note: SBDM is School-based Decision Making.

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 the Department of Education (KDE) and the Kentucky Board of Education (KBE) are empowered to discipline, suspend, and remove district personnel under sufficiently serious circumstances. The 2021 General Assembly removed this KBE authority as to local board of education members;
 - 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 Education Professional Standards Board (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 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 receiving accurate information that may indicate a violation of KERA is required to forward that information to OEA. This provision makes OEA a state clearinghouse for education-related complaints.

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 is to investigate the complaint and resolve the conflict, if possible, or forward the matter to 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, the Investigations Division manager evaluates the situation before opening a case. Part of the evaluation process requires a review of OEA files for any prior related cases or complaints. The division manager 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 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 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. OEA staff does not 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” to withhold its records 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 Investigations Division manager 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 retains the complaint.

If the facts recited in the complaint support a claim of violation 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 KDE under KRS 158.6453.
- Special education issues are usually referred to KDE, as its Office of Special Education and Early Learning 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 Department of Education 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 is taking action, OEA usually declines to open a case. This practice prevents the duplication of effort and waste of taxpayer dollars that can occur when multiple organizations perform the same work. For example, if OEA receives a complaint regarding a certified educator who is already subject to an inquiry by EPSB, 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, handle 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. This practice was suspended due to COVID concerns, forcing OEA to work cases remotely by telephone during the pandemic. However, OEA was cleared to resume onsite visits in 2021. Any local district concerns with masking and social distancing will still be respected.

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. When OEA investigators conduct onsite visits, reasonable notice is provided to make sure that specific individuals will be present in the district for interviews upon their arrival. Districts are usually notified three days in advance. 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 individuals who are the subjects of the inquiry and to the district superintendent. 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 again sent to the individuals who are the subjects of the inquiry and to the superintendent. Complainants, if known, are notified that a final report has been issued and a copy may be obtained through an Open Records Request to OEA. 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 (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 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) and (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 KBE are empowered to discipline, suspend, and remove district personnel 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 EPSB for possible disciplinary action and revocation of certification pursuant to KRS 161.120.

School-based Decision Making and Investigative 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 30 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)1 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. KRS 160.345(2)(b)2.

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 and KDE'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.

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) are 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.

Effective July 14, 2022, councils no longer hired principals, as that hiring is done by the superintendent, after consulting with the council. KRS 160.345(2)(i)¹¹ contains a description of meaningful consultation between the school council and the principal. The same consultation characteristics (meetings, timelines, review of applications, interviews), should apply to consultation between the superintendent and the council.

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, 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, 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 to OEA for review.

Effective July 14, 2022, councils no longer had a curriculum determination and development policy, as the superintendent is empowered to select school curriculum after consulting with the local school board, principal, and school council. However, the council will still have a policy regarding responsibility for school writing policy pursuant to KRS 160.345(2)(i)¹ and KRS 158.6453(19).

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, be consulted regarding textbooks and instructional materials, 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 participating in budget matters and recording council actions in their meeting minutes. When such complaints are substantiated, OEA informs the district and the school and, to ensure compliance, seeks future documentation of the council activity.

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 are 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, 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)(g), (3)7. A relative is defined as the father, mother, brother, sister, husband, wife, son, and daughter of the board member. KRS 160.180(1). OEA investigates 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(2)(d), (3)7. 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)(e), (3)(a)1. 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 division 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), (3)(a)2. 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.** Until 2024, KRS 160.170 and KRS 160.180 prohibited a board member from influencing or attempting to influence the *hiring or appointment* of any school employee, other than the superintendent and board attorney. Effective July 2024, a BOE member may not attempt to influence the *employment* of any school employee, other than the superintendent and board counsel. This change made it clear that improper BOE member activity to affect the hiring, firing, or status of an employee, other than the superintendent and board attorney, is impermissible. 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. Sales 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 and independent district areas where the line between districts is unclear. 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 often 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 EPSB when analyzing complaints concerning certification.

Improper Political Activity

While school district employees certainly have First Amendment rights that must be respected, OEA receives complaints that staff participate in political activities that can be detrimental to the educational process. Complaints are made that personnel engage in partisan activities on school time and with school resources, which violates KRS 161.164 and local board of education policies. OEA carefully examines such allegations and balances appropriate citizen participation against the need to prevent interference with the efficient and smooth operation of the schools.

Privacy and Confidentiality

OEA has received complaints that confidential student and employee information has been released to the public. This may violate the Kentucky Family Education Rights and Privacy Act (FERPA) beginning at KRS 160.700. Since such data and records may have already been released by the time the complaint reaches OEA, the office may become involved to minimize damage and prevent such violations from happening in the future.

Chapter 2

Research Overview

KRS 7.410 assigns OEA a variety of functions related to monitoring, analyzing, and validating education data. It requires the office generally to monitor the elementary and secondary public education system. Upon direction of EAARS, OEA may also be requested to verify the accuracy of reports of school, district, and state performance; conduct studies that analyze, verify, and validate the state assessment program through external indicators such as the ACT or National Assessment of Educational Progress; and review the elementary and secondary public education finance system.

To direct this work, the statute requires EAARS to adopt an annual research agenda for OEA. The agenda is assigned by and carried out under the direction of EAARS. The process involves discussion of possible topics between OEA staff and EAARS' co-chairs. Once the topics have been narrowed, a summary of the suggested topics is presented to EAARS for consideration and adoption.

OEA staff conduct research to fulfill EAARS' study requests throughout the year and report studies to EAARS when the studies are completed. In addition, research staff conduct short information requests for legislative staff; generally monitor reports and data put out by the Kentucky Department of Education; and stay informed of education-related issues by reviewing, as time permits, information presented at the Kentucky Board of Education and meetings of various advisory groups.

Within the framework of any statutory or regulatory guidance relevant to a particular topic, OEA's reports analyze all quantitative data available through KDE or other state sources and from any national comparative data relevant to the topic. In addition, the reports provide contextual information through interviews; reviews of existing research; and, when appropriate or possible, surveys of teachers or administrators and site visits to schools and districts across the state. Data collected from surveys and from school and district site visits are reported anonymously unless specifically noted and with permission of district staff.

In reviewing or analyzing data for requested reports, OEA may identify inconsistent or incomplete data available from KDE relevant to particular program areas. These data concerns are noted and sometimes constitute recommendations of the reports.

OEA's Research Division currently consists of one division manager and 4 research analysts. Collectively, analysts have training or experience in research methods, policy analysis, school district budgeting, auditing, financial data, and public school teaching.

With the retirement of its long-time database manager in 2024, OEA initiated a collaboration with LRC's Office of Computing and Information Technology (OCIT) staff in the coding and management of its longitudinal database, rather than hiring a separate database manager for OEA. This collaboration will increase staffing efficiency within the agency and assist OEA in maintaining industry standards for its database.

In 2024, OEA was awarded a Notable Document Award by NCSL's Research Librarians Professional Staff Association for OEA's 2023, "Kentucky Public School Employee Staffing Shortages" report. The award recognizes "excellence in documents or publications that explore topics of interest to legislators and legislative staff and present substantive material in an outstanding format." OEA was recognized on the NCSL website and in a presentation at the 2024 Legislative Summit. Through 2024, OEA has won a total of 10 notable document awards and 5 certificate of impact awards from NCSL's National Legislative Program Evaluation Society (NLPES).

Research Studies

In 2024, OEA completed the research studies described below. Each has been published and can be found on the LRC publications website.

Kentucky District Data Profiles School Year 2023; Research Report No. 487

The District Data Profiles (DDP) provided a comprehensive overview of all public school districts operating in the state during 2023. The report included longitudinal data covering district trends, finance, staffing, and school performance from fiscal years 2014 to 2023. The Overview and Trends section contained district data on school membership, end of year adjusted average daily attendance, student demographics, educational attainment, and school discipline. The Staffing Data section reported district data on certified and classified staff, and full-time equivalent teachers. Additional data on average salaries, years of teaching experience, and rank were provided. The Finance section covered per-pupil current expenditures and revenues by source, SEEK funding, and taxes levied. Each district's fund balance percentage and end of year general fund balance were reported. The Performance section presented data from the Kentucky Summative Assessments; ACT exams; and components of the accountability system, including rates of postsecondary readiness for different components of academic and career readiness. The Kentucky Interstate Comparisons section compared Kentucky with all 50 states and the District of Columbia on several key education metrics including demographics, teacher data, finance, ACT scores, graduation rates, and the National Assessment of Educational Progress.

The District Data Profiles also included an interactive feature to allow users to view and download interactive maps and charts that are of specific interest to them. The interactive feature was comprised of four distinct data visualizations:

- 2023 Data
- Interactive Heat Maps
- 10-Year Trend Data
- Compendium Of State Education Data

The charts and maps allow stakeholders to review one district at a time, compare districts to one another, or compare districts to the state averages. The visualization that contains the 2023 data mimics the feel and scope of the print edition. The Interactive Heat Maps allow users to examine selected variables and view regional differences instantly. The 10-Year Trend Data allows users to view longitudinal data for selected variables. The Compendium Of State Education Data

allows users to view rankings of Kentucky and all 50 states on selected variables.

Data Sources And Issues. Each year, the report includes data that are compiled by OEA from existing KDE reports as well as data that are calculated by OEA staff from complete data sets provided by KDE. Data sources are documented in the report.

In analyzing and calculating data for the DDP each year, staff seek to understand unusual trends or outliers observed in the data. Staff frequently partner with KDE staff and, on occasion, with school district staff, to understand discrepancies in the data. Many times, KDE are able to rectify data issues and provide OEA with updated data for publication in the DDP.

District Governance And State Intervention Models; Research Report No. 493

Local school boards play a central role in governing Kentucky's 171 school districts and the over 13,000 school districts that exist across the nation. These boards have wide-ranging powers related to district finances; property; staff salaries; and policies related to staff, student instruction, and student discipline. School board members in Kentucky are locally elected, as they are in the overwhelming majority of school districts across the nation.

Local boards have been praised as hallmarks of democracy, responsible for ensuring that public education is responsive to community values and needs and accountable to local taxpayers. Nationwide, local boards have also come under criticism by parents, policymakers, and other stakeholders unhappy with educational quality, costs, or outcomes.

This study placed local board governance in Kentucky in a national context by:

- reviewing Kentucky laws pertaining to local school boards and the state school board and comparing them to those in other states; and
- reviewing state policies and reform efforts related to local district governance, including results of those efforts and lessons learned.

The study aimed to provide context to understanding governance of local districts in the commonwealth compared with the nation and did not make recommendations.

Overall, the study found that Kentucky laws relevant to local school boards and the state school board are similar to those in most states. However, states differ in some areas, such as methods of selecting state school board members. Related to governance reforms, the study found that Kentucky law permits state intervention in local districts but does not have some policies that affect governance in other states. These include: incentives for very small districts to consolidate; authority of local voters to secede from existing districts and form new districts; mayoral control of local boards; or market driven local governance approaches. The study finds that these policies in other states have achieved intended results in some cases but have not proven effective or have faced challenges in others.

Major Findings of the report are as follows:

Kentucky State And Local Board Law Compared With Other States

In Kentucky, as in most states, school board members are elected by local voters and serve 4-year terms. In a minority of states, school board members in some districts are selected through other means, such as mayoral appointments. Kentucky's laws governing the state school board are largely consistent with those in most states, though states vary in their methods of selecting the commissioner of education and in the number of school board members.

State Policies Related To District Size

Consolidation. Very small school districts are generally more costly to operate than other school districts and may not offer the range of instructional options that are available in larger districts. Roughly 15 states have policies that encourage the consolidation of small districts and a few have previously mandated consolidation of very small districts. Research suggests that consolidation typically results in long-term savings in operational costs. However, local communities are often opposed to consolidation because they value the close relationships found in smaller districts and the geographic proximity to students' homes.

Deconsolidation. Roughly half of states have laws permitting local communities to secede from their existing districts and form new ones, although most states have restrictions on the conditions necessary for secession. Since 2000, approximately 40 communities have opted to secede. Supporters often express a desire to improve outcomes through greater local control. Critics contend that district secession increases racial and economic segregation. In some states, lawmakers have proposed legislation to split up large urban districts into smaller ones; those proposals have not been finalized into law, and during discussion legislators have noted a variety of considerations.

State Policies Related To Board Authority

State Intervention. Like most states, Kentucky laws permit the state department of education to take over local school districts and remove governance authority from local boards. Nationwide, state interventions are initiated most often due to financial concerns (75 percent) though academic concerns are common (50 percent). Intervention models vary, ranging from appointment of state management personnel, such as in Kentucky, to active implementation of specific school reform models, such as the intervention currently being undertaken by the Texas Education Agency in Houston. Research suggests that, overall, state takeover can lead to improvements in some aspects of districts' fiscal health but, on average, does not lead to improvements in student achievement.

Mayoral Control. Currently, 11 large city districts in nine states are under mayoral control, including New York City, Boston, and Washington, DC. In these cities, most or all board members are appointed by the mayor. Mayoral control became popular in the 1990s as a way of addressing concerns about student achievement and inefficiencies in large city school districts.

Effects of this model have been mixed and mayoral control has been phased out in a number of cities including, most recently, Chicago.

Charter Schools and Portfolio Models. Local board governance of charter schools differs from traditional public schools. Charter schools are not under direct control by local boards and have more discretion than traditional public schools to pursue strategies that would not be permitted under some existing laws and regulations. In Kentucky and some other states, local boards have the authority to authorize and revoke charters. Some advocates of market-driven educational approaches have proposed a local board governance model in which boards step back from direct governance and act as “portfolio” managers overseeing a variety of school options that include both traditional public schools and charter schools. Outcomes associated with the portfolio model generally are difficult to study as it varies among districts and is linked with other policies such as charter schools, mayoral control, or state intervention. OEA is not aware of any comprehensive research on the effects of the portfolio model.

Student Achievement: Lessons Learned From Kentucky’s Relatively Highest- and Lowest-Performing Schools;* Research Report No. 494

*Note that this report fulfills the request in the 2024 study agenda for a study on the “Characteristics of Higher- and Lower-Impact Schools.”

In Kentucky, as in the rest of the nation, academic performance is highly associated with student demographic characteristics. Most of the state’s highest-performing schools, for example, are those serving students from relatively wealthy families, whereas most of the lowest-performing schools have very high percentages of economically disadvantaged students. Additional factors associated with achievement include limited English proficiency, student disability, race, and ethnicity. Yet, academic performance of students in demographically comparable schools varies widely.

This report analyzes differences between “higher-impact schools,” in which student academic performance far exceeds the performance of demographically similar students across the state, and “lowest-impact” schools, in which academic performance appears low even after student demographic characteristics are taken into account. Understanding these differences may inform educators, the Kentucky Department of Education (KDE) and the General Assembly, in efforts to increase academic achievement of all students.

Using statewide data as well as site visits to 14 schools across the commonwealth, the study sought to understand:

- characteristics of highest-impact schools,
- barriers to student learning in lowest-impact schools, and
- potential for existing school improvement policies and resources to provide additional support to lowest-impact schools.^a

^a OEA staff visited eight highest- and six lowest-impact schools. Site visits represented all school levels and geographic regions and included schools with a variety of demographic characteristics.

Overall, the study found that highest-impact schools are more likely than lowest-impact schools to have positive, orderly school environments and to be implementing research-based instructional practices that are promoted by the Kentucky Department of Education. The study highlighted barriers to school improvement that are relatively less emphasized in school improvement planning currently required of schools and districts. These include:

- leadership skills necessary to establish and maintain effective instructional and behavioral systems;
- staff turnover; and
- school climate and culture challenges that affect teachers as well as students.

Many of these barriers might be addressed, in part, through use of existing resources and school improvement practices. Others—such as staff shortages in particular schools or districts—may be difficult for local leaders to address on their own.

Differences Between Highest- And Lowest-Impact Schools

Culture, Climate, And Student Behavior. Teachers' responses to a biennial KDE survey of working conditions show great differences among highest-impact schools in teacher working conditions, especially those related to climate, culture, and student behavior. Data from teachers in lowest-impact schools indicated less favorable working conditions at 4.5 times the rate of teachers in highest-impact schools (60 percent versus 13 percent). Both teachers and students in lowest-impact schools were much less likely than those in highest-impact schools to report orderly learning environments; consistent, fair rules; positive relationships between students; and respectful relationships between students and teachers.

Instructional Systems. Consistent with existing research on effective schools, almost all highest-impact site visit schools had well-developed instructional systems that clarified expectations for teachers and students based on collectively developed or refined curriculum documents and classroom assessments.^b These systems featured ongoing team analysis of student assessment data and classroom work; systematic support for both teachers and students not meeting expectations; and commitment to high standards for classroom instruction and student work. KDE provides a wealth of materials and guidance for schools and districts in implementing these types of systems.

Barriers To Effective Practice In Lowest-Impact Schools

Barriers to implementing best practices vary by school and district setting. In some site visit schools, school or district administrators appeared unaware of gaps in instructional or behavioral systems. In others, they lacked the knowledge, skill, or confidence to address these gaps. Some site visit teachers and administrators noted instances in which challenges were known, but

^b As outlined in KRS 160.345, local superintendents, in consultation with local boards, have the authority to determine curriculum, textbooks, and instructional materials provided to schools. School administrators and teachers in highest-impact schools used these documents as a base but added many elements that clarified instructional expectations and established systems for teacher feedback and student remediation.

some local leaders were unwilling to take the steps, such as addressing personnel challenges or investing the time and resources necessary to address the challenges.

Staff Turnover. Teacher and principal turnover undermine the conditions necessary to establish and maintain instructional and behavioral systems in many lowest-impact schools. Lowest-impact schools are seven times as likely to have very high teacher turnover rates as highest-impact schools (35 percent and 5 percent). Likewise, lowest-impact schools, on average, have much higher percentages of teachers with 5 or fewer years of experience than highest-impact schools. Percentages of these newer teachers in lowest-impact middle schools are especially high and are 1.4 times greater than in highest-impact middle schools (44 percent and 31 percent). In addition, principal tenure is 1.5 times longer in highest- versus lowest-impact schools (an average of 6 and 4 years). In some cases, teacher turnover reflects poor working conditions that might be addressed by school leaders. In other cases, staff turnover reflects challenges that may be difficult for school or district leaders to address alone. These challenges include regional housing shortages, lower teacher salaries, or geographic locations/demographic conditions not favored by teachers.

Schools Identified For Comprehensive School Improvement. Great challenges related to culture, climate, behavior and staff turnover are also evident in the state's lowest-performing schools—those identified by KDE for Comprehensive School Improvement (CSI) according to federal requirements.^o Data from both students and teachers in these schools suggest that challenges associated with relationships among students and student behavior are greater in CSI schools than in lowest-impact schools overall.

Importance Of Local Leaders

Site visit data illustrate the strong influence of local leaders on building and sustaining the instructional and behavioral management systems in highest-impact schools. Teachers credited local leaders—most often principals but also district administrators—with communicating compelling, high expectations for teachers and students; providing the supports needed to meet those expectations; and holding staff and students accountable when efforts fell short. Experienced teacher leaders also played critical roles in examining/improving classroom practices; holding each other accountable for high standards of instruction; and supporting less experienced teachers to understand and implement instructional and behavioral expectations of students. Finally, OEA visited four districts in which all schools were higher-impact. District administrators in these districts played active instructional leadership roles that included monitoring data; monitoring instructional practices; leading professional development; and supporting new or struggling teachers.

Relevance Of Findings For School Improvement Practices

Findings of the report highlight challenges associated with climate, culture, and student behavior; staff turnover; and leadership knowledge, skills, or willingness to address known challenges. Data related to these indicators receive relatively less attention in school improvement practices

^o CSI schools analyzed for this report were identified based on actual scores that do not take into account student demographic characteristics.

required of districts and schools than do data related to student achievement or particular instructional practices. Although instruction and student achievement must always be a central focus of school improvement efforts, it is possible that efforts at instructional improvement may be difficult to effect and sustain in those schools or districts with underlying challenges related to culture, staff, or leadership.

The report suggests ways that existing school improvement policies or programs might shed greater light on these underlying challenges.

Comprehensive School And District Improvement Planning

Comprehensive School Improvement Plans (CSIPs) and Comprehensive District Improvement Plans (CDIPs) are the primary mechanisms by which KDE might support and monitor improvement efforts of individual districts and schools. These plans currently pay little or no attention to staff turnover or working conditions data and focus relatively less on climate and culture challenges than on academic or instructional challenges.

District and school administrators interviewed for this report, while supportive of the planning process generally, noted ways that the process might be improved to assist with planning and to reduce unnecessary paperwork. They identified issues with the burdensome amount of specific requirements for the plan; timing of the plans as out of step with data and natural planning cycles; and limited feedback or support from KDE.

KDE staff noted reduced staffing available for plan review relative to previous years and limitations in KDE's ability to influence district implementation due to the fact that schools are locally controlled.

Data collected for this report and in previous research warrant review of the CSIP and CDIP process and opportunities for input from a variety of stakeholders.^d Based on additional input, the Kentucky Department of Education, the Kentucky Board of Education, and the General Assembly might consider changes to the CSIP and CDIP requirements and to KDE's role in monitoring these plans. These changes might include efforts to minimize paperwork; align timing and structure of school plans with school and district planning needs; place greater attention on staffing and leadership issues; and identify schools and districts in greatest need of support or direction related to specific data points.

Recommendation 3.1

The Kentucky Department of Education should consider soliciting feedback from superintendents, principals and school-based decision-making councils about requirements and processes for Comprehensive School Improvement Plans and Comprehensive District Improvement Plans. Feedback should include positive effects of the process; which elements might be required annually and which on a rotating basis; timing of submissions; software functionality; desired feedback; and desired sources of support.

^d Data collected for this report were limited to 14 schools and districts and are not necessarily representative of all schools and districts in the commonwealth.

Recommendation 3.2

By August 1, 2025, the Kentucky Board of Education should submit to the Interim Joint Committee on Education recommendations for any statutory changes or additional legislation that would allow for the Kentucky Department of Education to carry out meaningful review, feedback, and monitoring of Comprehensive School Improvement Plans or Comprehensive District Improvement Plans in select districts or schools. Recommendations might include additional authority, if any, of the department to require schools or districts to take specific actions.

Statutory Guidance

Although several statutes reference annual plans, statutes do not specifically authorize CSIPs and CDIPs as they apply to the annual plans currently required of districts and schools. Based on feedback from the KDE and various education stakeholder groups, the General Assembly may wish to consider such legislation.

Recommendation 3.3

The General Assembly may wish to introduce legislation directing the Kentucky Department of Education to collect, review, and monitor school and district comprehensive plans. The legislation might address additional authority, if any, of the department to require districts or schools to take specific actions under certain conditions.

Working Conditions Survey

KDE's biennial working conditions survey provides data that can identify critical foundational gaps that are barriers to improvement in lowest-impact schools and to maximizing student outcomes in others. As noted in the report, local leaders may lack the awareness, skills, or will to address challenges identified in schools with unfavorable working conditions. Although KDE encourages schools and districts to use working conditions data, it does not currently provide guidance or support for addressing issues identified in data.

Recommendation 3.4

In connection with release of data from its working conditions survey, the Kentucky Department of Education should consider providing a list of resources and supports for schools seeking to understand and improve specific challenges identified by educators in survey data. Resources might include those available through the department and through the state's local educational cooperatives, best practice sites, professional organizations, or vendors.

Intervention And Assistance For Low-Performing Schools

Currently, requirements for intervention and support in the Kentucky's lowest-performing schools are provided entirely by the federal government through the Every Student Succeeds Act

(ESSA) of 2015.^{e 1} ESSA requires state departments of education to allocate resources to schools identified for intervention and gives states discretion in how those resources are allocated.

KRS 160.346 guides implementation of ESSA. Among other things, the statute requires KDE to approve a “turnaround vendor list” of vendors to assist the state’s lowest-performing schools that have been identified for Comprehensive School Improvement (CSI). The vendors should have “documented success at providing turnaround diagnosis, training, and improved performance of organizations.” Given the specific challenges documented in this report related to climate, culture, student behavior, and staff turnover in CSI schools, the Kentucky Board of Education should endeavor to ensure that the approved vendor list includes at least one vendor, in addition to KDE, with a successful track record assisting schools with such challenges.

Recommendation 3.5

In assembling the list of vendors required by KRS 160.346 (1)(a), the Kentucky Board of Education should seek vendors with experience assisting districts to support schools with sustained challenges related to staff turnover; school climate and culture; and student behavior.

2025 Proposed Study Topics

Staff are currently working on completing three projects requested by EAARS in October, 2024, as part of OEA’s 2025 Study Agenda.

District Data Profiles

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

Analysis Of Student Discipline Data in Kentucky Schools

Following the COVID-19 pandemic and subsequent school closures, district leaders and teachers in Kentucky have reported an uptick in student behavioral issues. In response, the General Assembly passed HB 538 during the 2023 regular session, which introduced several modifications to student discipline laws. These changes specifically address threats made by students toward staff and peers, outline disciplinary measures for assaults occurring off school property, permit the placement of expelled students in alternative education settings, empower teachers to remove disruptive students from their classrooms, and tackle issues related to chronically disruptive behavior.

This report will analyze trends in student disciplinary behaviors across Kentucky public schools and districts. It will highlight common behavioral incidents based on program eligibility, race/ethnicity, grade level, type of incident, location, and the numbers and percentages of affected students. It will also look for relationships between discipline data as reported by

^e See *Assistance To Low-Achieving Schools And Districts*, a 2010 OEA report, for Kentucky-specific programs, such as the Highly Skilled Educators Program, that were provided in the past.

schools and related issues, such as student behavior and school safety, as reported by Kentucky teachers and students on survey data.

Early Childhood Regional Training Centers (RTCs)

KRS 157.318 establishes a network of regional training centers for preschool services for special education students. OEA should examine:

- Funding – federal special education funding and state appropriations/agency allocations;
- Student populations served (special education and any other students served and how non-special education students are funded); and
- Review of federal program requirements (20 U.S. Code § 1419) with state enacted policy.

¹ Kentucky. Legislative Research Commission. Office of Education Accountability. *Assistance To Low-Achieving Schools And Districts: Strengths, Limitations, And Continuing Challenges*, Research Report no. 378, 2010.