



K-12 Curriculum Development And Instructional Materials Selection

Research Report No. 484

Legislative Oversight And Investigations Committee

Kentucky Legislative Research Commission

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K-12 Curriculum Development And Instructional Materials Selection

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Abstract

This report reviews the processes guiding curriculum development and instructional materials selection for K-12 public schools in Kentucky. District superintendents have had primary authority over these processes since 2022. The Kentucky Board of Education creates academic standards, and the Kentucky Department of Education (KDE) provides guidance to districts on meeting standards. The Kentucky State Textbook Commission (STC) was actively involved in curriculum development and instructional materials selection, but it has been inactive since 2015 and is not meeting statutory responsibilities. KDE reports that the changing landscape of instructional materials selection and lack of funding are responsible for the commission's inactivity. This report suggests that the General Assembly reevaluate the statutory role and funding mechanisms for the commission and that KDE provide information to assist these evaluations. In the absence of STC, district superintendents report they would benefit from guidance on instructional materials selection through a list of materials adopted by other districts. Parents are involved in materials selection primarily through participation on local school councils and through providing feedback via formal processes by which they can object to materials. Formal objections are readily available to parents but rarely necessary. The report includes five finding areas, six recommendations, and four matters for legislative consideration.

Foreword

Legislative Oversight and Investigations Committee staff appreciate all those who provided assistance with this report. Foremost, the committee would like to note the cooperation of the Kentucky Department of Education and the Office of Education Accountability, without whose assistance this project would not have been possible. Officials from the Office of State Budget Director, the Interim Joint Committee on Education, the Office of Budget Review, the Kentucky School Boards Association, and the Kentucky Board of Education also provided valuable information and assistance. Staff would also like to thank the many district superintendents across the state who participated in multiple surveys, which provided important information. In particular, staff appreciate the direct involvement of the teachers, principals, and superintendents of Franklin County, Fayette County, and Jefferson County.

Jay D. Hartz
Director

Legislative Research Commission
Frankfort, Kentucky
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Summary

The Legislative Oversight and Investigations Committee voted to study the processes governing K-12 curriculum development and instructional materials selection for public schools in Kentucky. Statute establishes district superintendents as the primary authority over curriculum development and instructional materials selection, while school-based decision-making councils assist superintendents. The Kentucky Board of Education designs policy and standards while the Kentucky Department of Education (KDE) develops guidance and implements the policies created by the board and the General Assembly. The Kentucky State Textbook Commission (STC) is a governing body over textbooks and instructional materials. Its primary purpose is to review and maintain a list of approved materials. Statute requires that no textbook or primary instructional material be used unless it has been placed on STC lists or otherwise approved by the commission. STC has been inactive since 2015. Unclear and inconsistent funding mechanisms appear to be primarily responsible. Principals, teachers, and parents also participate in curriculum development and selection of instructional materials. Principals and teachers implement curriculum and use instructional materials. Parents participate in school-based decision-making councils and may object to any instructional materials through formal processes.

Major Conclusions

- STC has not met statutory requirements since 2015.
- STC's role may be less relevant due to the changing nature of instructional materials development and district authority over curriculum development and instructional materials.
- KDE reports that the state textbook fund is the primary financial support for STC, but it has been inconsistently funded since 2009.
- KDE reports that inconsistent funding, specifically the inconsistent appropriation of the state textbook fund, is the primary reason for STC inactivity.
- The impact of irregular appropriations of the state textbook fund on STC inactivity is unclear.
- KDE appears to delay STC operations when the state textbook fund is not appropriated.
- Superintendents and principals report that the absence of STC-approved materials lists has made materials planning more difficult.
- Processes for parents to object to instructional materials are available in all school districts, but are rarely needed.
- The model policy for the Harmful to Minors Complaint Resolution Process does not fully align with statute and does not include the option for parents or guardians to request that their student not have access to material.
- The Harmful to Minors Complaint Resolution Process does not include a role for superintendents, even though superintendents are responsible for materials selection.

Recommendations And Matters For Legislative Consideration

While STC has been inactive since 2015, statutory requirements for STC remain and its inactivity creates confusion and potential misalignment with legislative intent. Current statutes mandate that STC participate in determining primary instructional materials, oversee vendors, and provide guidance to districts. The General Assembly may wish to reevaluate the role of STC and either ensure its activity, eliminate its function, or assign it a new role. KDE should provide the General Assembly with the information needed to make this decision.

Recommendation 3.1

The Kentucky Department of Education should provide the General Assembly with a justification for the inactivity of the State Textbook Commission since 2015 and the decision of the education commissioner to not convene the commission and fulfill its statutory responsibilities. This report should be provided to the Legislative Oversight and Investigations Committee, the Interim Joint Committee on Education, the Interim Joint Budget Review Subcommittee on Education, and the Legislative Research Commission by June 1, 2024.

Recommendation 3.2

The Kentucky Department of Education should provide the General Assembly with an estimate of the current budgetary requirements for operating the State Textbook Commission as well as a review of the funding mechanisms for the commission. The report should include a review of the commission's relationship to the state textbook fund and other potential funding sources. The report should be provided to the Legislative Oversight and Investigations Committee, the Interim Joint Committee on Education, the Interim Joint Budget Review Subcommittee on Education, and the Legislative Research Commission by June 1, 2024.

Recommendation 3.3

The Kentucky Department of Education should provide the General Assembly with an evaluation of the best current use for the State Textbook Commission given budgetary constraints, the changing landscape of instructional materials, and the placing of authority over curriculum and instructional resources at the district level. This report should be provided to the Legislative Oversight and Investigations Committee, the Interim Joint Committee on Education, the Interim Joint Budget Review Subcommittee on Education, and the Legislative Research Commission by June 1, 2024.

Recommendation 3.4

The Kentucky Department of Education should provide the General Assembly with a plan for operating the State Textbook Commission under current statutory requirements, including estimated operating costs, until the legislature has made a decision regarding Matter for Legislative Consideration 3.1. This report should be provided to the Legislative

Oversight and Investigations Committee, the Interim Joint Committee on Education, the Interim Joint Budget Review Subcommittee on Education, and the Legislative Research Commission by June 1, 2024.

Matter For Legislative Consideration 3.1

The General Assembly may wish to consider either revising the State Textbook Commission statutes to eliminate its function or ensuring continued activity by adding oversight procedures. Alternatively, the General Assembly may consider defining a revised role for the commission that fits better with the changing landscape of curriculum development and instructional materials selection.

KDE attributes STC's inactivity to a lack of funding, and identifies the state textbook fund as the primary funding mechanism for the commission. The state textbook fund appears inconsistently in state budgets and, while the fund can be used to compensate STC instructional materials reviewers, its primary purpose is to provide funds to school districts for the purchasing of instructional materials. Inconsistent appropriations of the state textbook fund have been interpreted by KDE as insufficient funds for the purchase of new instructional materials and authorization for the KDE commissioner, per KRS 156.400, to delay STC-approved lists since 2009. These delays led to STC inactivity beginning in 2015. If the General Assembly wishes for STC to remain active, it may be necessary to clearly define the commission's funding mechanisms and clarify that the commission is to remain active regardless of whether instructional material purchases have been delayed.

Matter For Legislative Consideration 3.2

If it is the desire of the General Assembly to prioritize an active State Textbook Commission that can fulfill either its current statutory obligations or a revised mandate, the General Assembly may wish to statutorily define the funding mechanisms for the commission and clarify that the commission should remain active regardless of whether textbook or instructional material purchases are delayed via KRS 156.400.

STC is required to produce a list of approved instructional materials by grade and subject. Districts noted that, in the absence of this list, an alternative list providing guidance for selecting materials would be helpful. Given that districts often look to other districts for guidance when selecting materials, a list of district-adopted materials could serve as a replacement or supplement to STC lists. KDE could compile and maintain such a list but has stated it would require authority from the General Assembly to gather the information from districts.

Matter For Legislative Consideration 3.3

The General Assembly may wish to consider amending KRS 156.445 to provide the Kentucky Department of Education with authority to require district superintendents to annually report on the primary instructional materials adopted for K-12 coursework at the schools in their districts.

Recommendation 3.5

The Kentucky Department of Education should develop a policy to annually survey and compile information on the instructional resources used by Kentucky school districts. The resulting list should be made accessible to all school district personnel. This list should include information that the Kentucky Department of Education determines would aid districts in selecting instructional materials. The list should be updated at least once every year.

The Harmful to Minors Complaint Process allows parents to object to instructional materials based on a material's appropriateness for minors. The process does not include district superintendents, who are charged with reviewing and selecting instructional materials and are included in other materials evaluation processes. Excluding superintendents from the process removes a stakeholder's insight, potentially conflicts with a superintendent's responsibility for instructional materials selection, and could make materials planning more difficult if superintendents are not aware of material that has gone through an objection process.

Matter For Legislative Consideration 3.4

The General Assembly may wish to amend the Harmful to Minors Complaint Resolution Process, as established in KRS 158.192, to include a role for school district superintendents.

KDE's model policy for the Harmful to Minors Complaint Resolution process could be improved to align more closely with statute. The model policy does not include guidance on the final level of appeal, in which a parent can request that his or her student not have access to the material. Not including this information in the model policy risks leaving parents unaware of their full options and rights.

Recommendation 3.6

The Kentucky Department of Education should revise model policy 08.23 and procedure 08.23 AP.21 to include the full process for the Harmful to Minors Complaint Resolution process as outlined in KRS 158.192, by including the provision that parents can request that their child not have access to a material retained following appeal to local school boards.

Chapter 1

Curriculum Development And Instructional Materials Selection In Kentucky

During its August 11, 2022, meeting, the Legislative Oversight and Investigations Committee voted to study the processes governing K-12 curriculum development and instructional materials for public schools.

During its August 11, 2022, meeting, the Legislative Oversight and Investigations Committee (LOIC) voted to study the processes governing K-12 curriculum development and instructional materials selection for public schools in Kentucky. Staff's objectives were to determine if these processes followed statutes and regulations and to evaluate the role of relevant stakeholders.

LOIC staff conducted a review of curriculum development and instructional materials selection processes at the local, district, and state levels. The report reviews statutory frameworks from 1952 to 2023 to establish transitions in the current system and identify important actors at the state, district, and local levels. The activities of the State Textbook Commission (STC) are reviewed to determine how it operated, and options for its future role in instructional materials selection are considered. Appropriations are examined to understand how changes in funding have affected instructional materials selection. Responses from stakeholders are examined to suggest potential guidance in curriculum development. Parental objection processes are reviewed to determine the frequency of concerns with instructional materials and whether processes follow intended policies.

The review found that the State Textbook Commission (STC) has not meet its statutory responsibilities, that the Kentucky Department of Education (KDE) should compile a list of district-adopted materials, and that formal parental objections to instructional materials were rare.

The review found that the inactivity of STC is inconsistent with the commission's many statutory responsibilities and that the Kentucky Department of Education (KDE) should provide information to the General Assembly so that the legislature can address STC's inactivity. As a supplement or replacement for the lists of reviewed materials provided by STC, KDE should compile a list of the materials adopted by districts. Additionally, formal parental objections to instructional materials were found to be available across districts but rarely used.

Major Objectives

This study had seven major objectives.

This study had seven major objectives.

- Determine the current statutory and regulatory framework for curriculum development and instructional materials selection for use in K-12 public schools.

- Investigate how curriculum development and instructional materials selection for K-12 public schools currently operate in practice.
- Compare the past and present roles of local, district, and state entities in curriculum development and instructional materials selection for K-12 public schools.
- Determine if current curriculum development and instructional materials selection processes are operating in line with statute.
- Provide findings and recommendations for improving the curriculum development and instructional materials selection processes.
- Examine the role of parents in the selection of instructional materials, and provide feedback on their level of agency within the process.
- Provide findings and recommendations related to the agency of parents within the instructional materials selection and curriculum development processes.

Major Conclusions

This study has ten major conclusions.

This study has ten major conclusions:

- STC has many statutory responsibilities but has not met them since 2015. It has not met, has not facilitated the review of instructional materials, has not maintained lists of approved materials, has not produced district consumer guides, and has not provided state-level oversight of instructional materials selection and purchases. Statute requires that no textbook or primary instructional program be used in public schools unless it has been listed on the state multiple-list maintained by STC or has been approved by an off-list notification process.
- The mandate that STC determine which materials are approved for use by districts may no longer align with Kentucky's curriculum development and instructional materials selection goals. KDE personnel and district superintendents stated that the changing landscape of curriculum development may have made STC less relevant. As of 2022 under the direction of SB 1 (2022 RS), authority over curriculum development and instructional materials selection resides with district superintendents.
- A lack of funding for STC may have contributed to its inactivity since 2015. KDE reports that the scope of work required of STC has expanded, which would require increased

funding. Moreover, the state textbook fund, which was a major funding source for the commission, has been inconsistently appropriated since 2009. KDE contends that STC cannot properly function without the state textbook fund.

- The state textbook fund has been inconsistently appropriated since 2009. The Kentucky General Assembly appropriated a total of \$223 million from the general fund to the state textbook fund from FY 2000 through FY 2010. Appropriations to the state textbook fund have both decreased and become more sporadic since FY 2011. KDE has requested funding for textbooks in its recent budget requests; however, no funding has been appropriated since the 2016-2018 biennium.
- The impact of irregular state textbook fund appropriations on the functions of STC is unclear. For example, the state textbook fund received little to no funding between 2010 and 2015, yet STC was still active during these years. The General Assembly allocated \$59.1 million to the fund from 2015 to 2018, during which time STC was inactive. There is no statutory or budget language that restricts the funding of STC to the state textbook fund or any other specific funding source.
- KDE appears to delay STC operations when the state textbook fund is not appropriated. Inconsistent appropriations of the state textbook fund have been interpreted by KDE as insufficient funds for the purchase of new instructional materials and authorization for the KDE commissioner, per KRS 156.400, to delay STC adoption cycles and approved lists since 2009.
- In the absence of STC, districts report that they no longer have a list of vetted instructional materials from which to begin their selection process. This has resulted in a more difficult and uncertain process. Kentucky district superintendents and school principals reported that they would benefit from a compilation of the instructional materials adopted by other districts.
- Processes for parents to object to instructional materials are available in all Kentucky school districts but are rarely needed. Most disputes are resolved informally between parents and local school officials.
- The model policy for the Harmful to Minors Complaint Resolution Process does not fully align with statute. The model policy does not include guidance on the final step

of the new process, which states that after a final disposition is determined, a parent or guardian may request that the school ensure his or her student does not have access to the material.

- The Harmful to Minors Complaint Resolution process does not include a role for superintendents. Superintendents have full authority over curriculum development and instructional materials selection for their districts. In survey responses and interviews with LOIC staff, superintendents noted that their omission from the process may conflict with their responsibility for curriculum development and instructional materials selection. KDE reported support for involving superintendents.

Methodology

This study reviews curriculum development and instructional materials selection from 1952 to 2023 using literature reviews, document reviews, legal reviews, agency interviews, surveys, spending analyses, and reviews of other states.

This study reviews curriculum development and instructional materials selection in Kentucky from 1952 to 2023, including a discussion of how these processes have changed.

Staff conducted the following research tasks:

- Conducted literature reviews of curriculum development and instructional materials selection process in Kentucky and other states
- Reviewed Kentucky Department of Education guidance on curriculum development and instructional materials selection
- Reviewed national best practices and trends in curriculum development and instructional materials selection
- Reviewed applicable Kentucky Revised Statutes, Kentucky Administrative Regulations, and Kentucky legislation related to curriculum development and instructional materials selection
- Conducted interviews with agency leadership and staff, including the Kentucky Department of Education and the Kentucky Board of Education
- Conducted a legal review of curriculum development and instructional materials selection at the federal level
- Conducted a legal review of curriculum development and instructional materials selection in other states
- Reviewed relevant Legislative Research Commission (LRC) committee testimony
- Conducted interviews with school district superintendents, principals, and teachers from Franklin County, Fayette County, and Jefferson County
- Interviewed Kentucky LRC staff from the following:
 - Office of Budget Review

- Interim Joint Committee on Education
- Office of Education Accountability (OEA)
- Analyzed data related to the processes of textbook and instructional materials selection and approval from a sample of school districts
- Conducted surveys of school district superintendents to determine how instructional materials selection varied across districts and the number of protests received for textbooks and/or instructional materials
- Conducted a survey of school district superintendents about their experience with the current state of curriculum development and instructional materials selection
- Examined the role and statutory requirements of the State Textbook Commission
- Reviewed textbook fund expenditures from FY 2000 to FY 2023
- Reviewed executive branch appropriation bills from 1998 through 2022 for mention of appropriations to the textbook fund
- Reviewed the textbook and instructional materials selection process in six other states to compare with Kentucky's process

Structure Of This Report

Chapter 2 provides an overview of how Kentucky develops curricula and selects instructional materials for K-12 public schools. It also describes the statutory framework that guides these efforts, discusses the roles of stakeholders, and describes relevant funding mechanisms for purchasing instructional materials. Finally, the chapter includes a review of curriculum development and instructional materials selection in a sample of other states.

Chapter 3 presents five finding areas, six recommendations, and four matters for legislative consideration, related to

- the State Textbook Commission and the state textbook fund;
- creation of a proposed list of district-adopted primary instructional materials to be maintained by the Kentucky Department of Education;
- the formal process by which parents may object to instructional materials; and
- Kentucky's decision to transfer authority over curriculum development and instructional materials selection from local schools to district superintendents.

Chapter 2

Instructional Materials Background

Kentucky statute establishes district superintendents as the primary authority over curriculum development with school councils, the Kentucky Board of Education, and KDE providing assistance. STC provided oversight until 2015.

Curriculum and instructional materials are cornerstones of student education. Kentucky statute establishes district superintendents as the primary authority over curriculum development and instructional materials selection and requires school-based decision-making councils (SBDMs) to assist superintendents with these responsibilities. Statute also tasks the Kentucky Board of Education with designing policy and standards and directs the Kentucky Department of Education to develop guidance.

The Kentucky State Textbook Commission is established in statute as a body governing textbooks and instructional materials. The commission is statutorily required to review textbooks and instructional materials and produce a list from which districts select materials. STC has not met since 2015. In the 8 years that the commission has been inactive, the educational landscape has changed and new systems, legislation, and programs have been implemented.

Curriculum And Instructional Materials

The term *curriculum* refers to the overall set of planned learning experiences and instructional materials that are designed to help students achieve specific learning goals and objectives.¹ Textbooks and instructional materials are the vehicles by which curriculum is implemented, and they ensure that curriculum meets academic standards and learning goals.²

Curriculum

Curriculum is the overall set of planned learning experiences for a course of study, the framework that guides students toward educational goals.

Superintendents, principals, teachers, and KDE describe curriculum as the overarching framework or plan that guides students toward educational goals. They discuss curriculum as an umbrella term that includes all content, instructional materials, and assessments that are intended to be taught and learned within a course of study. They note that curriculum must include a strong emphasis on alignment with Kentucky Academic Standards (KAS), which contain the minimum requirements for students to know at the completion of each academic grade.³ KAS are established for English/language arts, mathematics, science, social studies, health/physical education, arts/humanities,

computer science, career studies, world language, library media and technology.⁴

Instructional Materials

Instructional materials are the tools by which teachers implement curriculum.

Instructional materials are the tools by which teachers implement a curriculum framework and facilitate student learning. KDE categorizes these materials as either basal or supplemental materials, with *basal materials* defined as digital or print materials that serve as a primary means of instruction for a class and *supplemental materials* defined as digital or print materials that complement basal materials for meeting KAS.⁵ The two primary goals when selecting instructional materials are educational outcomes and alignment with KAS.

Instructional materials range from traditional print textbooks and workbooks to fully digital programs.

Instructional materials range from traditional print textbooks and workbooks to fully digital programs. In this report, *textbook* refers to traditional print materials used as the primary instructional resources for a course, while digital materials that function as the primary instructional resource are referred to as *primary digital instructional programs*.^a Other print or digital resources used for supplemental instruction are defined as *supplemental materials*. When the term *basal* is used, it refers to the primary means of instruction within a classroom instructional, whether print or digital. *Instructional material* refers to any material used for classroom instruction.

Traditional print textbooks are becoming less common as they are replaced by digital materials.

A 2018 Office of Education Accountability study reported that in 1998 more than 70 percent of Kentucky teachers used published textbooks as their primary instructional material; by 2018, teachers reported using a wide range of materials, from formal published curricula and district-approved materials to informal online lessons and self-developed materials that had little alignment with state academic standards.⁶

Statutory Framework For Developing Curricula And Selecting Instructional Materials

An array of statutes and regulations outline the processes, funding mechanisms, and entities involved in developing curricula and selecting instructional materials in Kentucky. Table 2.1 lists the statutes and regulations most relevant to this report and describes their role.

^a Primary print and digital instructional resources are sometimes called “basal texts” in statute.

Table 2.1
Statutes And Regulations Governing
Curriculum Development And Instructional Materials Selection

Statute/Regulation	Summary
KRS 156.395	Defines instructional materials.
KRS 156.400	Requires the chief state school officer to create instructional material adoption groups with 6-year contracts and review cycles. Allows the chief state school officer to delay the purchase of books due to insufficient funds.
KRS 156.405	Establishes STC and its responsibilities. Requires STC to meet quarterly and establish a list of recommended instructional materials.
KRS 156.407	Requires the chief state school officer to solicit applications for STC textbook reviewers. Requires STC to appoint textbook reviewers.
KRS 156.433	Requires the Kentucky Board of Education to promulgate administrative regulations identifying instructional materials eligible for purchase with state funds. Establishes that KDE may compensate STC reviewers with state textbook fund money.
KRS 156.435	Requires STC to select, recommend, and publish instructional materials lists in each subject and grade. Requires the chief state school officer to execute contracts for the listed materials.
KRS 156.437	Gives authority for the Kentucky Board of Education to prescribe administrative regulations for the purchase of STC-listed materials.
KRS 156.439	Requires the Kentucky Board of Education to promulgate administrative regulations for calculating and distributing state textbook fund allocations to districts for the purchase of STC-listed materials.
KRS 156.445	Establishes that no textbook or instructional program can be used in K-12 public schools as a basal text unless it appears on STC-approved lists or meets the criteria of the off-list notification process.
KRS 156.557	Establishes a statewide framework for teaching that provides performance evaluation and professional development.
KRS 157.100	Establishes that the state must provide funds for instructional materials without cost to students in K-12 public schools.
KRS 157.110	Establishes that districts may charge rental fees for instructional materials for grades 9-12.
KRS 158.1415	Defines curriculum for instruction on human sexuality and sexually transmitted diseases. Requires parental consent and establishes alternative courses of study for instruction on human sexuality.
KRS 158.192	Establishes a resolution policy for complaints alleging that an instructional material is harmful to minors. Defines <i>harmful to minors</i> .
KRS 158.6451	Requires that KDE create and maintain a model curriculum framework to provide curriculum development guidance to districts.
KRS 158.6453	Requires that KDE implement a process for reviewing the alignment between Kentucky public school assessments and Kentucky Academic Standards.
KRS 160.345	Defines the role and composition of school-based decision-making councils. Grants authority to superintendents over curriculum development and instructional materials selection.
702 KAR 3:120	Establishes the uniform school financial accounting system and gives the Kentucky Board of Education authority over local school district budgets.
704 KAR 3:455	Establishes the primary administrative regulations related to the adoption and purchasing guidelines for instructional resources. Identifies instructional materials eligible for purchase with state textbook funds and establishes the STC review and approved list processes.

Note: STC = State Textbook Commission; KDE = Kentucky Department of Education.

Source: Staff compilation of Kentucky Revised Statutes and Kentucky Administrative Regulations.

A wide array of statutes and regulations outline curriculum development in Kentucky—primarily KRS chapters 156, 157, 158, and 160, as well as chapter 3 of KAR titles 702 and 704.

KRS Chapter 156 defines the roles of KDE, the Kentucky Board of Education, and STC in selecting and approving instructional materials. It creates STC and establishes that no instructional materials may be used in Kentucky public schools unless approved by the commission. The chapter establishes the responsibilities of KDE and the Kentucky Board of Education with respect to the operation of STC.

KRS Chapter 157 and KAR Titles 702 and 704 describe funding mechanisms for the purchase of approved instructional materials. They require that the state provide funds for instructional materials and define which materials can be purchased with those funds. Most of the statutes and regulations listed in Table 2.1 presuppose the existence and activity of STC, which has been inactive since 2015.

KRS 160.345, 158.192, and 158.6451 represent recent statutory changes and are discussed in greater detail in the following section.

2022 And 2023 Legislation

In recent years, three significant statutory changes affected curriculum development.

In recent years, three statutory changes have significantly affected curriculum development and instructional materials selection: Senate Bill 1 from the 2022 Regular Session, and Senate Bills 5 and 150 from the 2023 Regular Session.

SB 1 amended KRS 160.345 to give district superintendents authority over curriculum development and instructional materials selection.

SB 1 amended KRS 160.345 to transfer authority over curriculum development and instructional materials selection from school councils to district superintendents. From 1990 to 2022, school councils oversaw these processes. As of 2022, this authority rests with superintendents, who are required to consult with the local board of education, the school principal, and the school council. They must also allow a reasonable review and response period for stakeholders in accordance with local board of education policy.

SB 5 created a new section of KRS 158 to define certain materials as “harmful to minors” and established a complaint resolution policy for those materials.

SB 5 created a new section of KRS 158 to define materials that are “harmful to minors.” Harmful materials are those that appeal to prurient interest in sex or are patently offensive to prevailing standards for what is suitable for minors. The bill required KDE to promulgate a model policy for a complaint resolution process for complaints submitted by parents or guardians who allege that a material is harmful to minors. In May 2023, KDE established this model policy, which superseded the Request for Reconsideration policy for matters related to the inappropriateness of materials for minors.

SB 150 defined curriculum for instruction on human sexuality and sexually transmitted diseases. It required parental consent and established alternative courses of study for instruction on human sexuality.

SB 150 defined curriculum for instruction on human sexuality and sexually transmitted diseases. It required parental consent and established alternative courses of study for instruction on human sexuality. The bill required that no children in grade 5 or below receive any instruction on human sexuality or sexually transmitted diseases. The bill further established that no child, regardless of grade level, may receive any instruction studying or exploring gender identity, gender expression, or sexual orientation. Districts are required to have a policy notifying a parent and getting written consent before their child in grade 6 or above receives any instruction on human sexuality or sexually transmitted diseases. For any courses that include instruction on human sexuality, the school must provide an alternative for students whose parents have not consented.

Landmark Federal And State Legislation Guiding Curriculum Development

At the federal level, the Elementary and Secondary Education Act (ESEA), the No Child Left Behind Act (NCLB), and the Every Student Succeeds Act (ESSA) shaped curriculum development nationally.

Curriculum development and instructional materials selection is addressed at the federal level as well. The Elementary and Secondary Education Act (ESEA) was signed into law in 1965. ESEA established a role for the federal government in elementary and secondary education policy by addressing disparities in educational opportunities for students from disadvantaged backgrounds. ESEA provided federal funding for low-income students and schools.⁷

ESEA laid the foundation for federal involvement in education by addressing disparities in educational opportunities. NCLB introduced accountability systems with standardized testing.

ESEA was updated in 2002 by the No Child Left Behind Act (NCLB), which emphasized accountability and standards-based education. NCLB increased the federal government's role in education policy by holding states and schools accountable for the academic progress of students. It required states to set specific academic standards and implement standardized testing to measure student progress. In order to receive federal funds, schools were expected to make adequate yearly progress.⁸

ESSA balanced federal oversight and state autonomy by increasing states' flexibility in creating academic standards.

NCLB was reauthorized and replaced in 2015 by the Every Student Succeeds Act (ESSA), which sought to maintain a focus on accountable and equitable education while also providing more flexibility to states in designing their educational accountability systems. ESSA kept the annual standardized testing requirements from NCLB but allowed states to incorporate additional measures of student progress. The act shifted the emphasis away from federal intervention and toward state-level decision making by granting states autonomy in developing their own academic standards and assessments.⁹

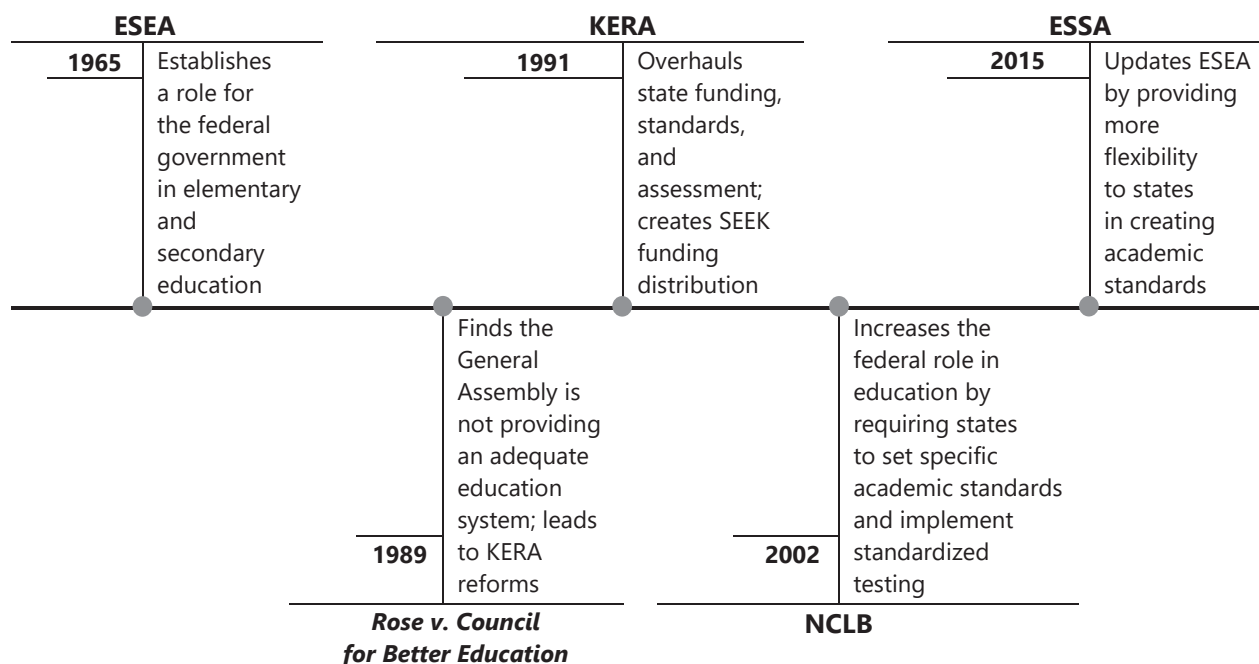
In Kentucky, an example of sweeping state-level education reform was the Kentucky Education Reform Act (KERA). Section 183 of the Constitution of Kentucky requires the General Assembly to enact legislation to provide an efficient school system throughout the state. In 1989, the Kentucky Supreme Court ruled that the General Assembly was not satisfying this requirement.¹⁰ As a result, the General Assembly created a Task Force on Education Reform to provide recommendations on improving educational outcomes.¹¹

In 1991, the Kentucky Education Reform Act overhauled school funding and created systems for accountability and assessment.

Based upon recommendations from the taskforce, in 1991, the General Assembly passed KERA. It overhauled school funding and created systems for accountability and assessment. KERA also created the Support Education Excellence in Kentucky (SEEK) funding formula for equitable distribution of education funding, created SBDMs to increase local control over education, created the Office of Education Accountability to provide additional oversight and accountability, emphasized professional development for educators, increased parental involvement by requiring schools to adopt parental involvement policies, and established statewide assessments through the Kentucky Performance Rating for Educational Progress.¹²

Figure 2.A provides a timeline of these landmark developments in Kentucky curriculum development at the state and federal levels.

Figure 2.A
Timeline Of Legal Requirements For Education In Kentucky
1965 To 2015



Note: ESEA = Elementary and Secondary Education Act; KERA = Kentucky Education Reform Act; SEEK = Support Education Excellence in Kentucky; NCLB = No Child Left Behind Act; ESSA = Every Student Succeeds Act.

Sources: Alyson Klein, “No Child Left Behind: An Overview.” *Education Week*, 2015. Web; US. Department of Education. “Understanding The Every Student Succeeds Act: A Parents’ Guide To The Nation’s Landmark Education Law.” August 2018. Web; *Rose v. Council for Better Education*, 790 S.W.2d 186 (Ky. 1989); and Olivia Krauth. “On Shaky Ground: How Did Kentucky’s Watershed Education Reform Act Hold Up After 30 Years?” *Courier Journal*, 2020. Web.

State Entities Responsible For Curriculum Development And Instructional Materials Selection

As of 2022, district superintendents are responsible for curriculum development and instructional materials selection for the schools within their districts. At the state government level, the Kentucky Board of Education, the Kentucky Department of Education, and the Kentucky State Textbook Commission have an array of responsibilities related to supporting district curriculum development and materials selection.

Kentucky Board Of Education

The Kentucky Board of Education has policy-making and oversight functions.

The Kentucky Board of Education serves as the governing body overseeing education policies and regulations within the

commonwealth. These policies cover a wide range of areas, including academic standards, curriculum, assessment, teacher certification, and school accountability.¹³

KRS 156.160 requires that the Kentucky Board of Education promulgate administrative regulations establishing academic standards that schools must meet. These standards define what students are expected to know and be able to do at each grade level in various subject areas. Since 2017, the board has been charged with implementing a process for the review of the official Kentucky Academic Standards every 6 years to determine whether they are accomplishing Kentucky's educational goals. The creation of these standards significantly influences curriculum development by fundamentally establishing the goals districts hope to accomplish when designing curricula.¹⁴

While KDE carries out the day-to-day operations of Kentucky's education system, the Kentucky Board of Education helps ensure that these operations align with state policies and sets the broader direction for curriculum and instructional materials.

The board also approves and revises administrative regulations that guide the implementation of state education policies and provides oversight and guidance to KDE, which is responsible for implementing and administering state education policies. While KDE carries out the day-to-day operations of Kentucky's education system, the board helps ensure that these operations align with state policies and sets the broader direction for curriculum and instructional materials.¹⁵

In addition to these broad functions, the board establishes and oversees the school accountability system, which includes measures for assessing and rating the performance of schools and districts in the state, and establishes requirements and standards for teacher certification. The board also serves as an advocate for public education at the state and federal levels and engages with stakeholders to gather feedback on educational policies.¹⁶

Kentucky Department Of Education

KDE provides state-level oversight and support for the public education system. It is responsible for implementing and enforcing the education policies set by the Kentucky Board of Education and the legislature.

KDE provides state-level oversight and support for the public education system. It is responsible for implementing and enforcing the education policies set by the Kentucky Board of Education and the legislature. The department is involved in the distribution of state education funding to school districts through mechanisms like the SEEK formula and assists with financial management and budgeting for education in the state. KDE establishes and enforces standards for teacher certification and licensure. The department collects, manages, and reports educational data, which is used for various purposes, including policy making, resource allocation,

and accountability. KDE also administers federal education programs and ensures compliance with federal laws and regulations, such as those under the Every Student Succeeds Act.

KDE provides curriculum development guidance to districts through initiatives like the Model Curriculum Framework, Instructional Resource Consumer Guides, Curriculum Development Professional Learning, High-Quality Instructional Resource Standards, and the Quality Curriculum Task Force.

With respect to curriculum development and instructional materials selection, KDE is responsible for ensuring that curricula align with Kentucky Academic Standards and providing districts with guidance to that end. KDE provides guidance to districts through initiatives like the Model Curriculum Framework (MCF), Instructional Resource Consumer Guides, Curriculum Development Professional Learning, High-Quality Instructional Resource Standards, and the Quality Curriculum Task Force.

KRS 158.6451 sets standards for curriculum development and requires KDE to maintain a model curriculum framework to aid districts in meeting standards. KDE was first tasked with creating the MCF in 2009 and has updated it regularly. The MCF outlines processes for curriculum development, identifies teaching strategies, and aids districts in the selection of high-quality instructional materials. The framework also focuses on aligning curricula with Kentucky Academic Standards and is reviewed and updated to ensure alignment is consistent. KDE provides the framework to districts, which then use it to develop curricula for their schools.

KDE must develop and maintain instructional material consumer guides to aid districts with curriculum development and instructional materials selection. KDE has created consumer guides for mathematics and reading and writing. KDE also provides guidance on selecting high-quality instructional resources.

KRS 156.405 requires that KDE develop instructional material consumer guides to aid districts in selecting high-quality instructional resources (HQIRs). To date, KDE has created consumer guides for mathematics and reading and writing. KDE also provides general guidance to districts on selecting HQIRs. KDE defines *HQIRs* as materials that are aligned with KAS; research based and/or externally validated; comprehensive to include engaging texts, tasks, and assessments; based on fostering vibrant student learning experiences; culturally relevant; free from bias; and accessible for all students.¹⁷ HQIRs help promote uniformity and consistency in the quality of instruction across classrooms and assist in boosting student achievement.¹⁸ They also provide teachers with more cohesive and coherent instructional materials, which allow them to focus more on teaching rather than selecting materials and planning lessons.¹⁹

KDE views highly rated EdReports materials as HQIR and encourages districts to use EdReports reviews when selecting instructional materials. EdReports is an independent nonprofit organization that reviews instructional materials.²⁰ The organization rates materials on standards alignment and usability.²¹

EdReports works with Kentucky teachers to align their review tools with the KAS, and KDE works with EdReports to verify alignment.²² KDE considers that materials with a green rating from EdReports are HQIRs.²³

KDE has also established a Quality Curriculum Taskforce to review guidance and provide feedback on the evaluation and selection of instructional materials at the district level. The taskforce is a 21-member group of educators that includes district leaders, teachers, library specialists, educational cooperative representatives, and university faculty. The taskforce provides annual feedback on the MCF, the curriculum development processes of districts, and consumer guides.²⁴

KDE also oversees the district off-list notification process that allows districts to use instructional materials that do not appear on STC-approved lists. Beginning in 2009, as STC-approved lists began to expire, the district off-list notification process took on increased importance. By 2015, KDE was advising districts that all materials must go through the off-list process.

Kentucky State Textbook Commission

From 1952 to 2015, STC was an important participant in processes for curriculum development and instructional materials selection.

By maintaining a list of approved and reviewed textbooks and primary instructional resources from 1952 to 2015, STC was an important participant in schools' and districts' processes of developing curriculum and selecting instructional materials. KRS 156.405 required schools and districts to use materials from this list unless they requested alternative materials via the district off-list notification process overseen by KDE.

STC was established with the mandate to approve high-quality instructional materials for use in public schools, guide districts on instructional materials selection, and oversee instructional materials vendors.

KRS 156.405, codified in 1952, established STC with the mandate to approve high-quality instructional materials for use in public schools, provide districts with guidance for instructional materials selection, and provide oversight of vendors of instructional materials. STC's role also encompassed the development of selection criteria and evaluation review forms, as well as the establishment of state lists of approved textbooks and instructional materials. STC is statutorily mandated to consist of the chief state school officer and 10 additional members appointed by the Kentucky Board of Education and approved by the chief state school officer. KRS 156.433 establishes that instructional materials eligible for purchase with state textbook funds must be approved by the commission and that state textbook funds can be used to pay STC instructional material reviewers.

Statute requires that STC meet at least once per quarter and that no primary instructional material be used in any public school unless approved by the commission, but STC has not met or maintained approved lists since 2015.

KRS 156.405 requires that the commission meet at least once per quarter, and KRS 156.445 requires that no textbook or primary instructional material be used in public schools unless approved by the commission either through placement on an approved list or through an off-list notification process. Despite these statutory requirements, the commission has not met or maintained approved lists since 2015. KDE attributes the inactivity of the commission to lack of funding and the changing nature of classroom materials from traditional print textbooks to digital programs of study.²⁵

District And Local Entities Responsible For Curriculum Development And Instructional Materials Selection

Curriculum development and instructional materials selection has been the purview of school councils and district superintendents.

The state provides policy, standards, guidance, and oversight, but direct authority over developing curricula and selecting instructional materials has historically been the purview of school councils and district superintendents.

School-Based Decision-Making Councils

Prior to 2022, school-based decision-making councils (SBDMs) determined curriculum development and instructional materials selection.

KERA created school-based decision-making councils in 1991. KRS 160.345 outlines the role of SBDMs, which has been updated multiple times, most recently through SB 1 in 2022. Prior to 2022, SBDMs had authority over curriculum development, instructional materials selection, and availability of student support services for their schools. Following SB 1, this authority has been transferred to district superintendents, but SBDMs must still be consulted during districts' processes of developing curriculum and selecting instructional materials. SBDMs are also still responsible for adopting policies that determine the writing program for their schools. Outside of curriculum responsibilities, SBDMs develop school improvement plans, set non-curriculum-related school policies, participate in selecting principals, and influence school budgets. SBDMs are composed of two parents, three teachers, and the principal or administrator.

District Superintendents

KRS 160.345(2)(g) gives superintendents the authority to determine curriculum, textbooks, and instructional materials for their districts.

SB 1 from the 2022 Regular Session amended KRS 160.345 and transferred authority over curriculum development and instructional materials selection from SBDMs to school district superintendents. The statute requires superintendents to consult with the local board of education, the principal, and the school

council, but final decisions regarding curricula and instructional materials rest with the superintendents.

In interviews, superintendents, teachers, and principals supported the district-led curriculum development process. Principals and teachers noted that superintendents have made the curriculum development and instructional materials selection processes collaborative. Superintendents reported that they encourage participation in curriculum development by the principals and teachers who are responsible for implementing the process in schools and classrooms. Staff from each of the superintendent offices interviewed by LOIC collaborated with teachers and principals during the curriculum development process, consulting teachers from across the district when selecting new instructional materials.

Aside from responsibilities related to curriculum and instructional material, district superintendents also have final say over school principal selection, distribute SEEK funding allocations to schools based upon school budgets, work with local school boards to develop and implement district policies that align with state laws and regulations, and oversee districts' day-to-day operations, including transportation, maintenance, and facilities management.

Principals And Teachers

While district superintendents develop curricula and select instructional materials, principals and teachers are primary actors responsible for implementing curriculum and using instructional materials.

While district superintendents develop curricula and select instructional materials, principals and teachers are primary actors responsible for implementing curriculum and using instructional materials. Principals shape their schools' educational goals and oversee the schoolwide implementation of the curricula developed by districts. Teachers use the instructional materials selected for their districts to communicate lesson plans and implement curricula in the classroom. Along the way, both principals and teachers adapt curricula and adopt supplemental instructional materials to meet the diverse needs of their students. KDE reports that a major advantage of having districts select HQIR materials is that lesson planning is strategically built into curriculum, allowing allows teachers to focus on how to teach rather than what to teach.²⁶

Prior to the passage of SB 1 (2022 RS), principals and districts were also directly involved in developing curricula and selecting instructional materials via their position on SBDMs. Although principals and teachers still serve on SBDMs, they are now in advisory positions rather than decision-making positions.

Despite this change, in interviews, all superintendent office staff reported that they include principals and teachers in curriculum development. They also reported that principals and teachers have significant leeway in implementing curricula and choosing supplemental instructional materials.²⁷ In a 2018 OEA survey, 99 percent of superintendents reported that principals and teachers were heavily involved in selecting and vetting instructional materials.²⁸ School principals and teachers are also involved in reviewing instructional materials in response to parental concerns via the Request for Reconsideration policy and the Harmful to Minors Complaint Resolution policy.

Parents

Parents do not directly set curricula and select instructional materials, but they participate in SBDMs and can object to materials.

Parents do not directly set curricula and select instructional materials, but there is a recognized parental right to make decisions regarding the education of their children. The statutes and policies governing curriculum in Kentucky require the appointment of two parents to SBDMs and provide avenues for parents to express concerns with any curriculum or instructional materials. Prior to 2023, parents could complete a Request for Reconsideration if they objected to materials. After the passage of SB 5 in 2023, the Harmful to Minors Complaint Resolution Process was added. The Harmful to Minors process affords more control to parents, allowing them to request that their children have no access to material of concern regardless of the decisions of a school principal and the local school board. In interviews and surveys, teachers and principals revealed that they are invested in including parents in instructional materials selection and approval.

Funding For Instructional Materials

Instructional materials purchases are funded through a combination of local, state, and federal funds. Most expenditures for instructional materials are derived from Support Education Excellence in Kentucky (SEEK) funding and, historically, appropriations to the state textbook fund.

Public school districts fund the purchase of instructional materials using a combination of local, state, and federal funds. The bulk of expenditures for instructional materials are derived from SEEK funding and, historically, appropriations to the state textbook fund.²⁹ Districts also utilize federal funds, such as federal grants and pandemic relief funds, to purchase instructional materials.³⁰

Implemented by the General Assembly in 1990, SEEK is the main source of K-12 education funding in the commonwealth. The General Assembly establishes a per-pupil amount of funding for each budget cycle, which—adjusted for growth—is used to set the guaranteed base funding for operating and capital expenditures of local school districts. Statutes provide for adjustments to

the guaranteed base funding for additional costs for at-risk, exceptional, and limited English proficiency students, as well as for home and hospital instruction and for transportation.³¹

School districts must contribute local revenue as part of SEEK funding.

In addition to receiving state funding, school districts must generate local revenue as part of SEEK funding. They do this through property tax, motor vehicle tax, and permissive taxes. Additionally, school districts have the option of pursuing additional funding beyond the minimum required by SEEK in order to better provide for economically disadvantaged districts.³²

SEEK funds may be used for instructional materials but are primarily used for operations and capital expenditures.

The base guaranteed per-pupil amount of SEEK funding from the state for 2023 was \$4,100. The local per-pupil amount that districts are required to contribute varies per district. While SEEK funds may be used to purchase instructional materials, funding is used primarily for operations and capital expenditures.³³

The General Assembly can appropriate general funds to the state textbook fund, which provides additional funding to districts for the purchase of K-8 instructional materials.

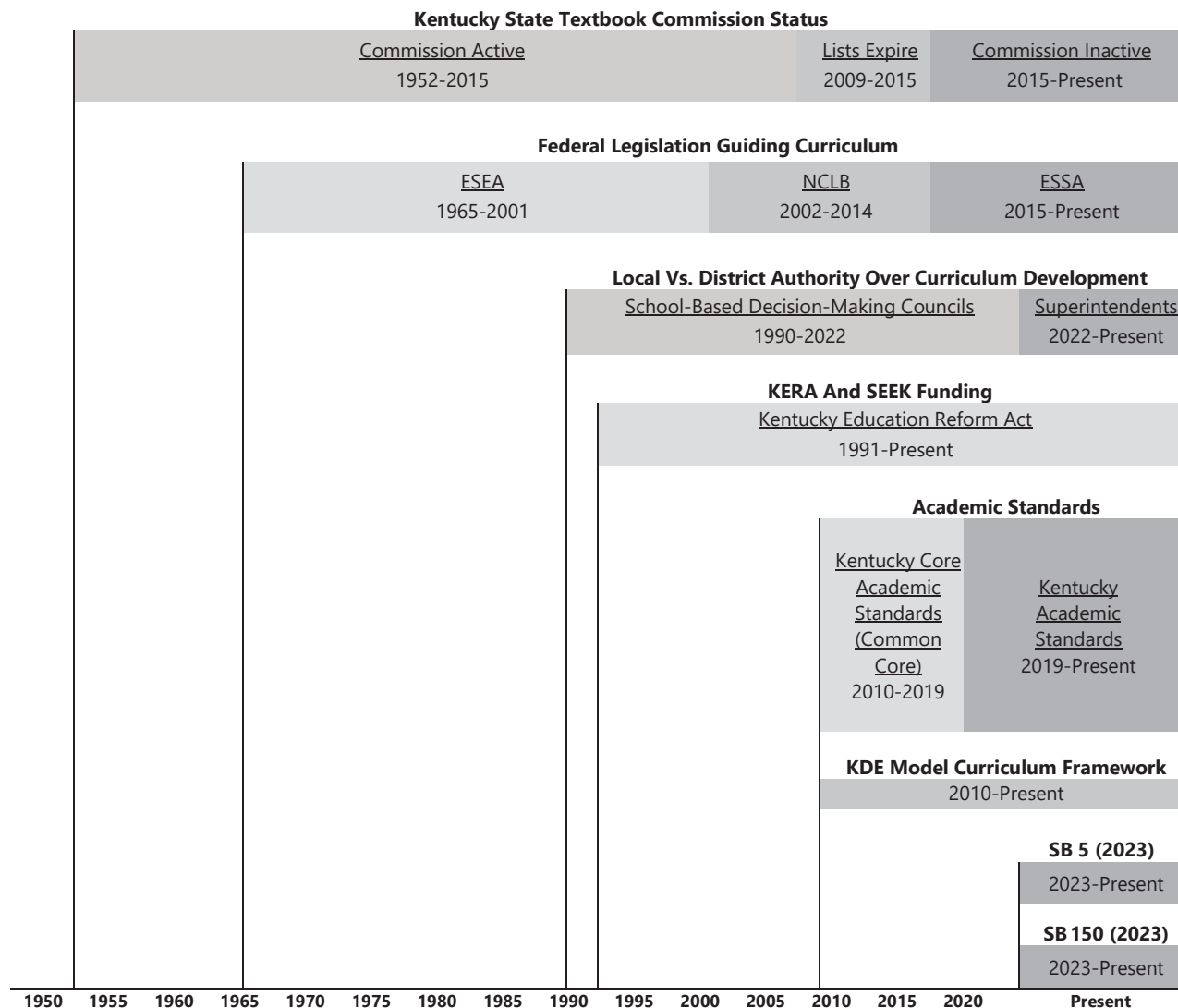
In addition to SEEK funding, the General Assembly has appropriated general funds to the state textbook fund. Budget documents note that the state textbook fund “provides support to local school districts to obtain instructional material for students in kindergarten through eighth grades.”³⁴ Per KRS 156.433, KDE is also able to use the textbook funds for costs associated with the State Textbook Commission. The legislature appropriated nearly \$300 million to the textbook fund from 2000 to 2024. However, appropriations to the fund have both decreased and become more sporadic since fiscal year 2010.³⁵

A 2018 Office of Education Accountability report noted that technology-related expenses began surpassing spending on print materials in 2009 and constituted nearly two-thirds of all instructional materials expenditures in 2017.

A 2018 Office of Education Accountability report noted that, on average, each district spent \$242 per student annually on instruction materials. Investments in digital materials and hardware began surpassing spending on print materials in 2009 and constituted nearly two-thirds of all instructional materials expenditures by 2017. OEA’s analysis indicated that technology-related expenses exceeded print materials in all districts combined over the observed period of 2008 to 2017.³⁶

Figure 2.B shows the timeline of the curriculum developments discussed in this chapter. Since the 1950s, curriculum has typically been managed by a combination of the State Textbook Commission and local SBDMs. Funding has been accomplished primarily through SEEK distributions and state textbook fund appropriations. The granting of curriculum development authority to districts, the absence of the state textbook fund, and the absence of the state textbook commission are relatively recent occurrences.

Figure 2.B
Timeline Of Kentucky Curriculum Developments
1950 To 2023



Sources: Staff compilation of Kentucky Revised Statutes, state House and Senate bills, and State Textbook Commission meeting correspondence.

Curriculum Development And Instructional Materials Selection In Other States

Staff reviewed curriculum development in nine other states. Four develop curricula at the district level, as Kentucky does. Five decide curriculum at the state level.

Staff reviewed the curriculum development and instructional materials selection processes in nine sample states. A comparison of Kentucky's processes to those of the sample states found that four states (Indiana, New Jersey, Ohio, and Tennessee) develop curricula at the district level in a manner similar to Kentucky, while five states (Alabama, California, Florida, Massachusetts,

and Texas) do so at the state level.^b Alabama, Florida, Indiana, and New Jersey are similar to Kentucky in requiring the deciding body to have input from other people or entities before curriculum can be chosen. All of the sampled states, including Kentucky, have statutory requirements and/or restrictions imposed on curriculum development.

In all nine states reviewed by staff, instructional materials selection was the responsibility of local schools or school districts. In seven, state-level entities provided oversight.

With respect to instructional materials selection, authority rested at the local or district level in all of the sample states. Seven, however, exercised some state-level oversight via the keeping of statewide lists of approved materials. Four of the seven states (Alabama, Florida, Ohio, and Tennessee) required that instructional materials must appear on approved lists prior to use in classrooms. Kentucky's instructional materials selection process is statutorily set up to operate in this manner via the State Textbook Commission but, in practice, now more closely resembles the states without approved lists.

Table 2.2 summarizes the state curriculum development and instructional materials selection process comparisons.

^b Sample states were chosen for regional diversity and curriculum development policy variation, as well as including a sample of states similar to Kentucky.

Table 2.2
Authority Over Curriculum Development And Instructional Materials Selection
In A Sample Of States

State	Authority Over Curriculum Development		Authority Over Instructional Materials Selection			
	Level Of Authority	Responsible Entity	Level Of Authority	Responsible Entity	State List Of Approved Materials	Is Selection Restricted To List?
Alabama	State	State board of education	Local	Local board of education	Yes	Yes
California	State	State board of education	Local	Local education agencies	Yes	No
Florida	State	State board of education	District	District school board	Yes	Yes
Indiana	District	Superintendent	District	Superintendent	Yes	No
Kentucky	District	Superintendent	District	Superintendent	Yes	Yes
Massachusetts	State	Commissioner of education	Local	School committees	No	N/A
New Jersey	District	District board of education	District	District board of education	No	N/A
Ohio	District	District board of education	Local	Local board of education	Yes	Yes
Tennessee	District	Local board of education	Local	Local board of education	Yes	Yes
Texas	State	State board of education	District	School districts	Yes	No

Source: Staff compilation of statutes and regulations: Ala. Admin. Code r. 290-1-1-.01; Ala. Code secs. 16-3-11, 16-35-3, 16-36-60, and 16-36-61; Cal. Educ. Code secs. 60005, 60200.4, 60210, and 60400; Fla. Stat. secs. 1003.41, 1006.28, 1006.283, 1006.29, and 1006.40; Ind. Code secs. 20-20-5.5-2 and 20-26-12-24; KRS 160.345; Mass. Gen. Laws ch. 69 sec. 1A; N.J. Admin. Code sec. 6A:8-3.1; Ohio Rev. Code Ann. secs. 3313.21, 3329.07, and 3329.08; Tenn. Code Ann. secs. 49-6-2201, 49-6-2202, 49-6-2206, and 49-6-2207; Tex. Educ. Code Ann. secs. 7.102, 31.022, 31.0252, 31.1011, 49-2-203, and 49-2-210.

Chapter 3

Findings And Recommendations

This review of Kentucky's processes for curriculum development and instructional materials selection resulted in five major finding areas, six recommendations, and four matters for legislative consideration.

STC Has Failed To Meet Statutory Responsibilities Since 2015

The State Textbook Commission has many statutorily required responsibilities but has not met since 2015.

The Kentucky State Textbook Commission is statutorily required to review and approve primary instructional materials and provide lists of approved materials to schools and districts.³⁷ According to KRS 156.445, no materials may be used in Kentucky K-12 classrooms unless they appear on these lists or are otherwise approved by STC.^a The commission has not met or fulfilled these requirements since 2015. Reasons put forth for its inactivity include a lack of funding, statutory changes resulting in district authority over instructional materials, and the changing nature of instructional materials.³⁸ Although these factors may have decreased the commission's relevance, its statutory requirements remain and its inactivity creates confusion and potential misalignment with legislative intent. This report recommends that STC's inactivity be evaluated and that its statutory framework be reexamined.

STC Statutory Responsibilities

Statute requires STC to meet quarterly, oversee the review of instructional materials, maintain a list of approved materials, oversee instructional materials vendors, and provide guidance materials to districts.

STC has an array of statutory responsibilities. KRS 156.405 establishes the commission and requires it to meet quarterly, maintain a list of reviewed and approved primary textbooks or instructional programs, and provide a consumer guide to districts to aid in instructional materials selection. The statute also requires that the KDE commissioner serve as the STC secretary, alongside 10 other members appointed by the Kentucky Board of Education upon recommendation of the commissioner. Statute further

^a KRS 156.445 establishes that a school council, or a principal if there is no council, may have the superintendent notify STC that it plans to adopt a basal textbook or program that is not on the recommended list by submitting evidence that the chosen title meets STC selection criteria in KRS 156.405(3)(b) and the subject-specific criteria of the textbook reviewers pursuant to KRS 156.407(5) and that the title complies with the required publisher specifications.

requires that STC appoint instructional material reviewers based upon the recommendation of the KDE commissioner. The commissioner is required to call STC into session no later than May 1 of each year.³⁹

KRS 156.445 establishes that no primary instructional material may be used in Kentucky public schools unless STC has approved it.

KRS 156.445 establishes that no textbook or primary instructional material may be used in any public school in Kentucky unless it has been placed on a list of approved materials maintained by STC, or has been approved by an off-list notification process by which the school notifies STC of its intention to use a material not on a list. Those materials must still be approved by KDE as meeting the criteria established by the commission.⁴⁰

704 KAR 3:455 requires STC to provide oversight of vendors and annually conduct public hearings.

704 KAR 3:455 sets additional requirements for the commission. The administrative regulation requires that STC provide oversight over vendors and requires that vendors submit samples and program specifications to STC prior to bid review. 704 KAR 3:455 also requires the commission to annually conduct a hearing for any person or organization that may have complaints about an instructional resource being considered for listing on STC-approved materials lists.

KDE maintains that some functions of STC have been replicated via the instructional materials lists created by EdReports, KDE's production of consumer guides for some subjects, the use of KAS writers to evaluate the alignment between EdReports and KAS, and the creation of the Quality Curriculum Taskforce to evaluate and guide district-level instructional materials selection. Table 3.1 lists the statutory responsibilities and functions of STC and the status of those functions in 2023.

Table 3.1
Kentucky State Textbook Commission Responsibilities And Status
October 1, 2023

Statute Or Regulation	Responsibilities And Functions	Status Of Responsibilities And Functions
KRS 156.405	STC must consist of 10 members appointed by Kentucky Board of Education upon recommendation of KDE commissioner.	STC has not had active appointments since 2015.
	KDE must convene STC by May 1 of each year.	STC has not convened since 2015.
	STC must meet quarterly.	STC has not convened since 2015.
	STC selects textbook reviewers and directs their activities.	STC has not selected textbook reviewers since 2009. KDE reports that KAS writers currently serve a similar function by evaluating the alignment between EdReports and KAS.

Statute Or Regulation	Responsibilities And Functions	Status Of Responsibilities And Functions
	STC develops and approves selection criteria and evaluation forms used by textbook reviewers.	There have been no STC reviewers since 2009, but KDE provides districts with instructional material guidance and evaluation via the Model Curriculum Framework and the Quality Curriculum Taskforce.
	STC provides notice of and opportunity for public inspection of textbooks.	STC has not met to provide public feedback on instructional materials since 2015.
	STC conducts hearing to receive public comment.	There have been no STC public hearings since 2015.
	STC selects, recommends, and publishes lists of high-quality textbooks and programs.	Not occurring, but KDE directs districts to EdReports for vetted instructional materials lists.
	STC publishes consumer guides and distributes them to districts and schools.	KDE produces consumer guides for math, reading, and writing as of 2023. It plans develop consumer guides for other subjects.
KRS 156.445	Instructional material shall not be used in any public school unless it has been listed on STC-approved list or met alternative notification requirements.	Instructional materials since 2015 have not been required to be approved by STC due to its inactivity. Off-list notification process is rarely used.
	Through an off-list notification process, schools and districts can notify STC that they plan to adopt instructional material not on approved lists and provide evidence that the material meets STC standards.	KDE maintains off-list notification process via its website, but process is rarely used. There is no STC to provide approved lists or evaluate validity of off-list materials.
KRS 156.433	Kentucky Board of Education and KDE commissioner shall promulgate administrative regulations identifying materials eligible for purchase with state textbook funds. STC must approve these materials.	State textbook funds have been inconsistently appropriated since 2009. When appropriated, funds are distributed directly to districts for purchase of materials. There are no STC lists and no consideration is given to STC approval when purchasing materials.
	STC textbook reviewers may be compensated up to \$1,000 annually per reviewer from state textbook fund.	STC has not hired textbook reviewers since 2009.
704 KAR 3:455	Vendors submitting bids for materials to be used in Kentucky schools must send their products to STC for review.	STC no longer performs this function. Districts are now in charge of curriculum development and instructional materials selection and contract with vendors directly.
	STC may inquire into vendors and ascertain whether any vendor has violated provisions of instructional resource adoption process as laid out in 704 KAR 3:455 and KRS 156.400 and 157.190. If sufficient evidence is present, a vendor may be called before STC, and STC may cancel the vendor's contract.	STC no longer performs this function. Districts are now in charge of curriculum development and instructional materials selection and contract with vendors directly.
	STC shall ensure that materials submitted for recommendation meet "Manufacturing Standards And Specifications For Textbooks" approved by National Association of American Publishers.	STC has not performed this function since 2015.

Statute Or Regulation	Responsibilities And Functions	Status Of Responsibilities And Functions
	Requests to substitute revised editions of instructional materials under contract shall be considered at STC's first regular meeting of calendar year, to be held on or before May 1.	STC has not met since 2015 and has heard no appeals to substitute revised editions of instructional materials since.
	Schools may use state instructional resource funds to buy STC-recommended instructional materials only if the materials fall under the category of primary instructional material.	As there are no STC-approved materials lists, instructional resource funds are currently distributed to districts to purchase instructional materials at their discretion.

Note: STC = Kentucky State Textbook Commission; KDE = Kentucky Department of Education.

Source: LOIC staff compilation of responsibilities and functions of the Kentucky State Textbook Commission; LOIC staff analysis of information provided by the Kentucky Department of Education; Kentucky. Legislative Research Commission. Office of Education Accountability. *Textbooks And Instructional Materials*, Research Report No. 455. 2018. Web.

Changes In Curriculum Development And Inconsistent Funding May Have Decreased STC's Relevance

SB 1 (2022 RS) granted district superintendents authority over curriculum development and instructional materials selection for the schools in their districts.

Statutory changes that have shifted authority over curriculum development and instructional materials selection to the local and district levels, combined with inconsistent funding and the changing nature of instructional materials, may have contributed to STC's inactivity. KDE and district superintendents point to SB 1 (2022 RS) giving authority over curriculum development to district superintendents and the inconsistent appropriation of the state textbook fund since 2009 as examples of how statutory changes and inconsistent funding have led to STC's inactivity and decreased its relevance.⁴¹ As an additional factor potentially making STC less relevant, KDE and district superintendents noted the changing nature of instructional materials, which are becoming increasingly digital and proliferating in number.⁴² A 2018 OEA report found that purchases of digital materials and hardware began surpassing spending on print materials in 2009 and constituted nearly two-thirds of all instructional materials expenditures by 2017.⁴³

District authority over instructional materials selection may mean that STC approval over allowed instructional materials is less relevant.

Materials selection authority now rests with districts, which may constrain the authority of the mandate that STC determine which materials districts may use. KDE staff report that the department's current role is to provide guidance rather than maintain oversight in the manner in which STC operated. In its Model Curriculum Framework and Instructional Material Consumer Guides, KDE notes that "because districts direct the process to evaluate and select instructional resources per KRS 160.345 ... KDE has set out to ... promote the use of standards-aligned [high-quality instructional resources] to support implementation of the locally developed curriculum; and provide guidance and tools for

evaluating, selecting and implementing [curricula] at the local level.”⁴⁴

KDE also notes that the changing nature of instructional materials, as they have become more digital, has led to increases in the number and variety of materials available, as well as the frequency of changes and updates to them. KDE reports that the lists maintained by EdReports better accommodate this changing landscape than STC because the organization continuously adds and updates materials. The agency contends that it would be difficult for STC to conduct this work as efficiently.⁴⁵

KDE reports that lack of funding is the primary cause of STC’s inactivity since 2015.

KDE reports that insufficient funding for STC has also contributed to its inactivity since 2015. KDE reports that a lack of state funding, alongside an increase in the scope of work and cost of operating the commission due to the proliferation of digital instructional materials available to schools, led to a decrease in STC activity beginning in 2009. Specifically, KDE notes that the state textbook fund appropriation, which the agency views as historically the primary method for STC funding, has been inconsistently approved in state budgets since 2009.⁴⁶

It is unclear whether inconsistent appropriations to the state textbook fund should preclude the operation of STC as there is no statutory requirement that the commission be funded from a specific source.

While the state textbook fund has been applied inconsistently since 2010, staff was unable to ascertain how much this inconsistency has influenced STC’s inactivity. The full operating cost and funding mechanisms of the commission are unclear. There is no statutory requirement that the commission be funded from specific sources, aside from an allowance that STC textbook reviewers may be compensated via the state textbook fund. In addition to the state textbook fund, KDE reported that the commission had also been funded via the Office of Next Generation Learners, Division of Program Standards.⁴⁷

Effects Of STC Inactivity And Decisions Regarding Its Future Role In Instructional Materials Selection

The report presents three options to the legislature on how to address the inactivity of STC.

Despite statutory requirements, STC has not convened or met any of its requirements since at least 2015 and ceased production of approved materials lists as early as 2009.⁴⁸ Consequently, the commission has not maintained lists of reviewed and approved materials, produced consumer guides, provided schools and districts with instructional material guidance, or provided state-level oversight of instructional materials selection for several years.

The legislature may wish to reactivate STC to fulfill its unmet responsibilities.

The legislature may wish to reactivate STC to fulfill its responsibilities, since KDE has not fully replicated many

of its activities, such as providing an externally validated list of approved instructional materials.^c

Externally validated lists have been cited as a best practice by the Office of Education Accountability and KDE's Model Curriculum Framework and Consumer Guides.⁴⁹ LOIC surveys also found that 47 of 75 (63 percent) responding superintendents found the STC-approved materials lists useful. If the legislature decides to support the commission as currently described in statute, it may also wish to consider creating a mechanism to ensure that the commission fulfills its statutory requirement and remains active. Potential methods used with other commissions and panels include reporting requirements and tying funding appropriation to milestones or other activities.

The General Assembly may find that STC is incompatible with the district-led system that currently drives curriculum development and instructional materials selection.

Alternatively, the General Assembly may find that STC is incompatible with the district-led system that currently drives curriculum development and instructional materials selection. The commission may be incapable of fulfilling its statutory obligations due to the changing nature of instructional materials, which has led to a proliferation in number of materials available for review, and due to a lack of dedicated funding. Although KDE has attempted to perform some responsibilities of STC, such as producing consumer guides for some subjects and directing districts to a nonprofit organization for lists of reviewed materials, many STC functions remain unfulfilled.⁵⁰ Given that these functions have been unfulfilled since 2015, they may no longer be integral to curriculum development. Following a reevaluation of the role and function of STC, the legislature may be satisfied with how the instructional materials selection process has functioned without the commission and may wish to sunset the commission and revise the statutes that require it to participate in instructional materials selection.

A third legislative option is to assign STC a new role that is more compatible with district-led curriculum development.

A third option is to adapt the role of STC to the current district-led curriculum development system. In order to best select a course of action, the General Assembly would need information on the operations of STC and its funding needs. KDE is the agency most familiar with STC, so it would be the best party to provide this information to the legislature as well as indicate how STC can best adapt to the curriculum development landscape. Potential changes

^c KDE reports working to fulfill some responsibilities of STC in its absence. The agency has produced consumer guides for math and reading and writing, it began working with the nonprofit organization EdReports as an alternative to STC lists, and it is providing increased guidance to districts in the form of the Model Curriculum Framework and the Quality Curriculum Task Force.

to the commission identified by LOIC staff include making the STC lists less restrictive by eliminating the requirement that instructional materials must appear on STC lists before use in classrooms and providing more consistent funding to the commission so that it can accommodate a more expansive scope of review. KDE provided a preliminary revision to the statutes governing STC that would change the mandate of the commission from reviewing instructional materials to reviewing and producing guidance materials for districts as they review materials.

Recommendation 3.1

Recommendation 3.1

The Kentucky Department of Education should provide the General Assembly with a justification for the inactivity of the State Textbook Commission since 2015 and the decision of the education commissioner to not convene the commission and fulfill its statutory responsibilities. This report should be provided to the Legislative Oversight and Investigations Committee, the Interim Joint Committee on Education, the Interim Joint Budget Review Subcommittee on Education, and the Legislative Research Commission by June 1, 2024.

Recommendation 3.2

Recommendation 3.2

The Kentucky Department of Education should provide the General Assembly with an estimate of the current budgetary requirements for operating the State Textbook Commission as well as a review of the funding mechanisms for the commission. The report should include a review of the commission's relationship to the state textbook fund and other potential funding sources. The report should be provided to the Legislative Oversight and Investigations Committee, the Interim Joint Committee on Education, the Interim Joint Budget Review Subcommittee on Education, and the Legislative Research Commission by June 1, 2024.

Recommendation 3.3

Recommendation 3.3

The Kentucky Department of Education should provide the General Assembly with an evaluation of the best current use for the State Textbook Commission given budgetary constraints, the changing landscape of instructional materials, and the placing of authority over curriculum and instructional resources at the district level. This report should be provided to the Legislative Oversight and Investigations Committee, the Interim Joint Committee on Education, the Interim Joint

Budget Review Subcommittee on Education, and the Legislative Research Commission by June 1, 2024.

Recommendation 3.4

Recommendation 3.4

The Kentucky Department of Education should provide the General Assembly with a plan for operating the State Textbook Commission under current statutory requirements, including estimated operating costs, until the legislature has made a decision regarding Matter for Legislative Consideration 3.1. This report should be provided to the Legislative Oversight and Investigations Committee, the Interim Joint Committee on Education, the Interim Joint Budget Review Subcommittee on Education, and the Legislative Research Commission by June 1, 2024.

Matter For Legislative Consideration 3.1

Matter for Legislative Consideration 3.1

The General Assembly may wish to consider either revising the State Textbook Commission statutes to eliminate its function or ensuring continued activity by adding oversight procedures. Alternatively, the General Assembly may consider defining a revised role for the commission that fits better with the changing landscape of curriculum development and instructional materials selection.

Primary Funding Mechanisms For STC Have Been Inconsistent And Ill-Defined

KDE reports that the primary funding mechanism associated with STC was the state textbook fund and that a potential secondary funding source was the Office of Next Generation Learners, Division of Program Standards.⁵¹ These funding mechanisms have been inconsistently appropriated and their function has been ancillary to STC, leading KDE to report lack of funding as the primary factor leading to the decline of STC since 2009.

State Textbook Fund

The state textbook fund is a line-item appropriation designed primarily to provide additional funds to school districts for K-8 textbooks and instructional materials.

The state textbook fund is a line-item appropriation that irregularly appears in the state budget. The appropriation is designed primarily to provide additional funds to school districts for the purchase of K-8 textbooks and instructional materials.⁵²

A secondary function of the state textbook fund appropriation is to compensate STC instructional materials reviewers.

A secondary function of the appropriation is to compensate STC instructional materials reviewers.⁵³ This function is established in KRS 156.433, which requires that the Kentucky Board of Education promulgate administrative regulations identifying which instructional materials can be purchased with state textbook fund appropriations, establishes a review process for those materials through STC, and allows for the compensation of STC reviewers through the state textbook fund appropriation.

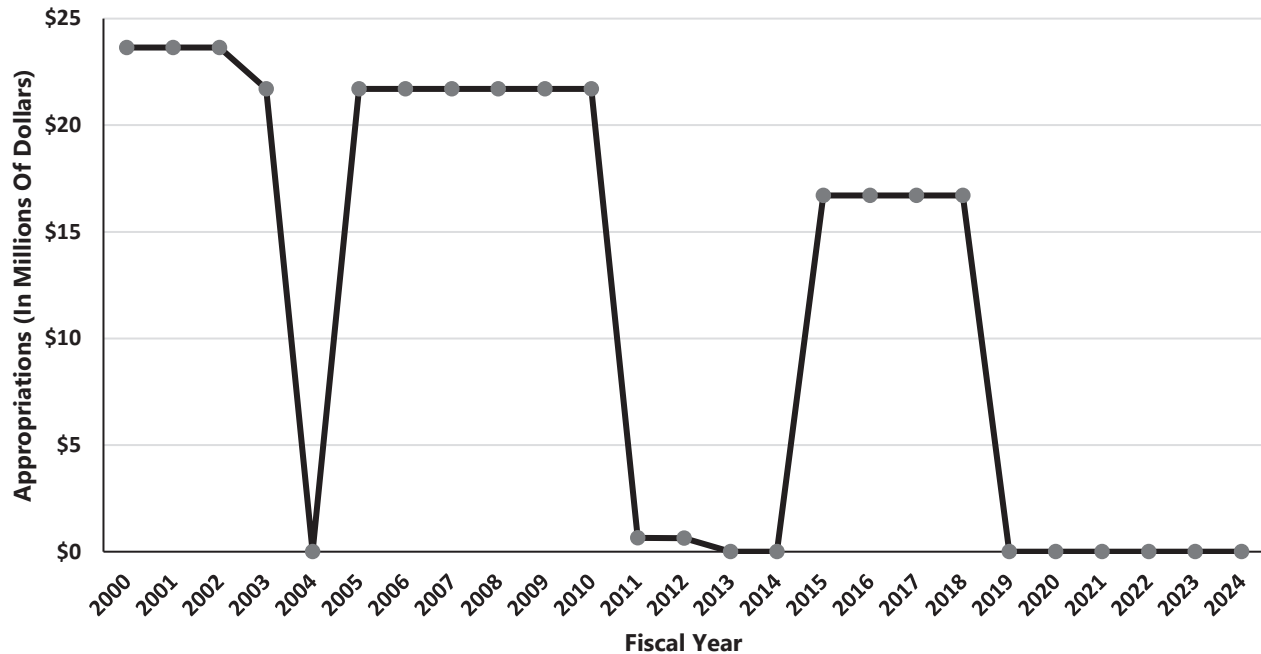
The Kentucky General Assembly irregularly appropriated nearly \$300 million in general fund money to the state textbook fund from FY 2000 to FY 2024, with \$223 million appropriated from FY 2000 through FY 2010. Other than 2004, the state textbook fund received annual funding in excess of \$21 million from 2000 through 2010. Appropriations to the textbook fund have decreased and become more sporadic since FY 2011.⁵⁴

Appropriations to the textbook fund have decreased and become more sporadic since FY 2011.

KDE has requested funding for textbooks in its recent biennial budget requests, but no funding has been appropriated to the state textbook fund since the 2016-2018 biennium.⁵⁵ KDE's 2020-2022 budget request documents included an additional request of \$17 million for the state textbook fund. In this request, KDE indicated that STC activities ceased due to lack of funding for textbooks. The requests stated the funding "will allow for the reconvening of the commission, the creation of a new State Multiple List and the updating of accepted instructional materials."^{d 56} The 2020-2022 Executive Budget Recommendation included \$11 million in FY 2021 and FY 2022 for textbooks, but funding was not included in either the 2021 or 2022 budget bills passed by the General Assembly.⁵⁷ In the 2022-2024 Executive Budget Recommendation, an annual appropriation of \$11 million for textbooks was again included; however, the budget bill passed by the General Assembly did not include funding for textbooks. Figure 3.A shows appropriations across this time frame, illustrating the gaps and decreases in funding.

^d State multiple-lists refer to the approved list of instructional materials maintained by the State Textbook Commission prior to its period of inactivity.

Figure 3.A
State Textbook Fund Appropriations
FY 2000 To FY 2024



Note: Amounts are actual amounts appropriated and do not reflect any subsequent budget cuts/revisions.

Source: LOIC staff compilation of appropriations to the Kentucky Department of Education's textbook fund from Budgets of the Commonwealth, FY 2000 to FY 2024.

KDE distributes the majority of funds appropriated to the state textbook fund directly to local school districts.

KDE distributes the majority of funds appropriated to the state textbook fund directly to local school districts for financial assistance for textbooks. The districts receive an allocation for grades K-8 based on pupil membership. Of the \$119 million expended from the textbook fund from FY 2007 to 2018, \$117.7 million (98.9 percent) was disbursed to Kentucky school districts. The remaining expenditures were used to purchase supplemental instructional materials and services from private vendors. The majority of these expenditures were for the purchase of braille materials for the Kentucky School for the Blind.^e There is no indication that any of the expenditures from the textbook fund from FY 2007 to FY 2018 were related to STC.

^e These vendors included organizations such as the American Red Cross, Guitar Center, Amazon, and various braille publishing companies.

Table 3.2
Kentucky Department Of Education Expenditures From The Textbook Fund
(In Millions Of Dollars)
FY 2007 To FY 2018

Recipient Of Expenditure	Fiscal Year								Total
	2007	2008	2009	2010	2015	2016	2017	2018	
School districts	\$21.5	\$21.6	\$15.3	\$0.6	\$16.5	\$16.6	\$16.5	\$9.1	\$117.7
Other*	0.2	0.1	0.3	>0.1	0.2	0.2	0.2	0.2	1.3
Total	\$21.7	\$21.7	\$15.6	\$0.7	\$16.7	\$16.7	\$16.7	\$9.3	\$119.1

Note: Figures may not sum to total shown, due to rounding.

* "Other" includes fees paid to various braille publishers, the American Red Cross, music companies, etc.

Source: LOIC staff compilation and analysis of eMARS/FAS3 data.

KDE reports that the lack of consistency in the appropriation of the state textbook fund has been the primary impetus for STC's inactivity since 2015

KDE reports that the state textbook fund appropriation has been the primary method for funding STC, specifically the compensation of instructional materials reviewers. KDE reports that the lack of consistency in the appropriation has been a major factor in the commission's inactivity since 2015.

Although KDE officials have indicated that bulk of funding for STC was derived from appropriations to the state textbook fund, additional funding may have been sourced from "general funds allotted to the Office of Next Generation Learners, Division of Program Standard's operating budget."⁵⁸ The Division of Program Standards was located within the Office of Next Generation Learners and assisted districts with the design and implementation of curriculum "based on new academic standards." A review of expenditures from 2010 through 2024 found that expenditures for the division steadily decreased. Also, for years where the state textbook fund was not appropriated, there were some expenditures that could have been related to STC, but it was not possible to verify STC-related expenditures.^f According to KDE, the Division of Program Standards is no longer a viable funding option for STC.⁵⁹

Impact Of Insufficient Appropriations To The State Textbook Fund On STC Inactivity Is Unclear

The impact of irregular appropriation of the state textbook fund on the activity of STC is unclear as there is no statutory or budgetary language that restricts funding of the commission to any specific funding source.

It is unclear how much impact the irregularity of funding mechanisms have had on the functions of STC. For example, the state textbook fund received little to no funding between 2010

^f For example, there were payments for grant reviewers in 2013, a stipend for the State Literacy Team, and expenses related to "reviewers." However, none of the expenses specifically mentioned the State Textbook Commission. Further, no documents for any transactions were available for review.

and 2015, yet the commission was still active during these years. Meanwhile, the legislature allocated \$59.1 million to the fund from 2015 to 2018, during which time STC was inactive. There is also no statutory or budget language that restricts the funding of STC to the state textbook fund or any other specific source.

Lack of funding for districts to purchase materials approved by STC led KDE to delay the commission's review cycles.

The funding required to convene the commission and compensate instructional material reviewers is estimated to be less than \$100,000 annually. The larger concern for KDE appears to be the funding required to purchase the materials that STC approves with each review cycle.⁶⁰ Inconsistent appropriations of the state textbook fund have been interpreted by KDE as insufficient funds for the purchase of new instructional materials and authorization for the KDE commissioner, per KRS 156.400, to delay STC adoption cycles and approved lists.⁶¹ Because of delays in these STC functions from 2009 to 2015, all materials used by schools were tacitly approved through the off-list notification process, and KDE decided not to convene STC in 2015.⁶²

It is unclear whether insufficient appropriations to the state textbook fund justify the inactivity of STC. The commission has operated in years without state textbook fund appropriations and has been inactive in years with the appropriation.

It is unclear whether insufficient appropriations to the state textbook fund justify the inactivity of STC. The state textbook fund is not the only source of funding available to districts for the purchase of instructional materials. Funds are also available from the general fund via SEEK distributions, through grants, and via local taxes and fees.⁶³ For example, between 2012 and 2014, when no state textbook funds were appropriated for K-8 instructional material purchases, districts relied on general fund money, grants, and fees to purchase these materials. Moreover, instructional materials for grades 9-12 cannot be purchased through the state textbook fund. Instead, 9-12 schools rely on general fund dollars and other special revenue funding, including grants and fees, to purchase these materials.⁶⁴

If the General Assembly wishes to ensure the activity of STC, it may be necessary to clearly define the commission's funding mechanisms and state that the commission is to remain active regardless of whether instructional material purchases have been delayed.

If the General Assembly wishes to ensure STC is active, it may be necessary to clearly define the commission's funding mechanisms. It may also be necessary to clearly establish whether STC should remain active regardless of textbook or instructional material purchase delays via KRS 156.400. Clearly defining these funding mechanisms and statutory authorities would eliminate ambiguity regarding how the commission is to be funded and when it is to be active.

Matter For Legislative Consideration 3.2

Matter for Legislative Consideration 3.2

If it is the desire of the General Assembly to prioritize an active State Textbook Commission that can fulfill either its current

statutory obligations or a revised mandate, the General Assembly may wish to statutorily define the funding mechanisms for the commission and clarify that the commission should remain active regardless of whether textbook or instructional material purchases are delayed via KRS 156.400.

Superintendents And Principals Would Benefit From A List Of Adopted Instructional Materials

KDE could provide valuable information to districts by compiling and providing a list of instructional materials used by all districts.

KDE could provide valuable information to districts by compiling and providing a list of instructional materials used by all districts. STC is statutorily required to provide a list of instructional materials approved for classroom instruction.⁶⁵ With the commission inactive, districts report they have lost a source of guidance in instructional materials selection. Superintendents regularly consult other districts for guidance on materials selection.⁶⁶ KDE reports that it would need statutory authority to collect the necessary information.⁶⁷

A 2018 Office of Education Accountability survey determined that superintendents frequently consulted other school districts in the state for guidance regarding instructional materials selection. According to the OEA report, “[d]istricts indicated that they often look to other public-school districts in Kentucky for information during the selection process, as well as to published research materials and district- and school-level selection committees.” For school year 2018, 48 percent of school districts indicated they “often” or “always” consulted with other Kentucky school districts for print materials selection. For the same year, 52 percent of school districts indicated that they “often” or “always” consulted with other Kentucky school districts for digital materials selection.⁶⁸

District superintendents regularly consult other districts for guidance on instructional materials selection.

Surveys of Kentucky district superintendents by committee staff support the OEA conclusions. Committee staff surveys asked district superintendents if Kentucky should have a statewide list of approved primary instructional materials. Of the 75 responding superintendents, 62 (83 percent) reported that the state should have such a list and 47 (64 percent) reported there should be a state-level entity charged with maintaining it.⁶⁹ Eight superintendents provided additional comments that specifically indicated a need for recommended lists to aid in the process of selecting instructional materials. Superintendents reported they would benefit from a vetted list of approved materials due to the number of materials

to choose from as well as the difficulty and time needed to ensure alignment with Kentucky Academic Standards. Superintendents noted that having a list would simplify the selection process and provide a starting point from which to develop curricula, accelerating the process and freeing resources. Superintendents also expressed concern that, without a vetted list, they were more likely to choose suboptimal instructional materials.

LOIC staff interviews of superintendents and KDE officials found that a statewide list of district-approved instructional materials would be a valuable resource in their curriculum development process.⁷⁰ Along with the Franklin and Fayette County Superintendent's Offices, the Jefferson County Superintendent's Office supported this proposal, noting that Jefferson County allocates considerable resources to the curriculum development and instructional materials selection process and the results would likely be valuable to districts with lower levels of resources.⁷¹

By using an annual survey, KDE could leverage the knowledge of district-level curriculum development and instructional materials selection into a comprehensive list with content information and reviews.

By using an annual survey, KDE could leverage the knowledge of district-level curriculum development and instructional materials selection into a comprehensive list with content information and reviews. This list would provide superintendents with a starting point for selecting high-quality instructional materials and alleviate the need to investigate the processes of other districts. Discussions with KDE officials resulted in a list of information that districts would find useful:

- Title of the instructional material
- Publisher
- Course and grade levels in which the material is used
- Length of time the material has been in use
- Assessment of the material by the district
- EdReports rating of the material⁷²

KDE officials stated that statutory changes would be needed to require school districts to respond to a survey of adopted instructional materials because KDE lacks the authority.⁷³ KDE officials provided LOIC staff with a draft of the necessary statutory changes to KRS 156.445. These would include the stipulation that superintendents annually report information on the specific instructional materials selected and implemented in K-12 classrooms to KDE.

Matter For Legislative Consideration 3.3

**Matter for Legislative
Consideration 3.3**

The General Assembly may wish to consider amending KRS 156.445 to provide the Kentucky Department of

Education with authority to require district superintendents to annually report on the primary instructional materials adopted for K-12 coursework at the schools in their districts.

Recommendation 3.5

Recommendation 3.5

The Kentucky Department of Education should develop a policy to annually survey and compile information on the instructional resources used by Kentucky school districts. The resulting list should be made accessible to all school district personnel. This list should include information that the Kentucky Department of Education determines would aid districts in selecting instructional materials. The list should be updated at least once every year.

Formal Processes For Parental Objections To Instructional Materials Are Readily Available But Rarely Required

The formal processes for reconciling parental objections to instructional materials are available across school districts but required infrequently.

The formal processes for reconciling parental objections to instructional materials are available across school districts but required infrequently.⁷⁴ Teachers, principals, and superintendents report that most parental complaints about instructional materials are handled informally between parents and educators prior to the initiation of a formal process.⁷⁵ If parents are concerned about instructional material, they have historically been able to issue formal complaints through the request for reconsideration process.⁷⁶ This process was superseded in 2023 by the Harmful to Minors Complaint Resolution process.⁷⁷ The new process has been in effect only for the 2023-2024 school year, and no data were available on its usage. Consequently, committee staff surveyed superintendents regarding the request for reconsideration process, which was the primary method for responding to parental complaints at the time. The survey gathered information on the frequency of the process by asking superintendents how many Requests for Reconsideration they had received over the past 3 years. Table 3.3 lists the results of the survey.

Table 3.3
Superintendents' Responses To Survey On Requests For Reconsideration
2020 To 2022

Topic Of Response	Number Received
Schools that received a request	17
Library materials reviewed	15
Classroom materials reviewed	7
All materials reviewed	22
Materials retained after review	13
Materials reassigned for individual student	6
Materials removed for student body	3
Materials reviewed at high school level	17
Materials reviewed at middle school level	2
Materials reviewed at elementary school level	3
Materials reviewed at multiple schools	1

Note: 97 superintendents responded from the 171 school districts surveyed.

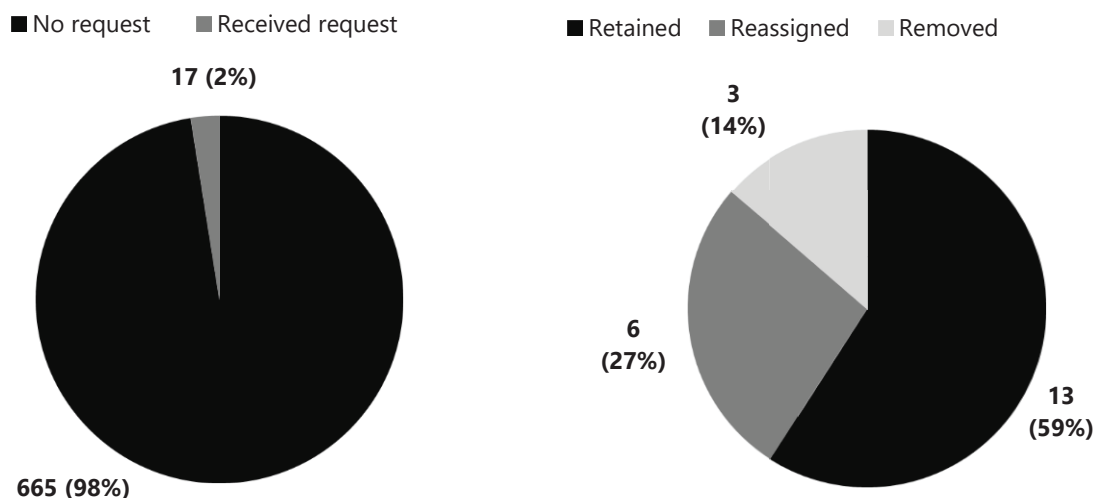
Source: LOIC Request for Reconsideration Survey, sent to Kentucky district superintendents May 5, 2023.

LOIC surveyed district superintendents to determine the frequency of formal parental complaints to instructional materials. Parents objected to 22 books over 3 years across 682 schools in 97 districts.

Of the 97 superintendents who responded to the survey, 17 (17.5 percent) reported that schools in their districts had received a request for reconsideration from 2020 to 2022. In the 17 responses, there were 7 requests for reconsideration involving classroom materials and 15 for library books. In total, parents objected to 22 books over 3 years. The responses represented 682 schools (59 percent) in 97 districts (57 percent) across 3 years.^g Of the 22 books that prompted formal complaints, 13 were retained for use by all students, 6 were reassigned for the students whose parents filed the complaint, and 3 were removed from the school. The survey results suggest that formal complaints to instructional resources are infrequent. This result was corroborated by statements from teachers, principals, and superintendents in interviews conducted by LOIC staff. Teachers, principals, and superintendents reported that most issues are resolved informally and that educators are often prepared with alternative materials.

^g The survey was sent to 171 districts, which included 1,166 A1 schools as of 2022. An A1 school is a school under administrative control of a principal or head teacher and eligible to establish a school-based decision-making council.

Figure 3.B
School Districts Receiving A Request For Reconsideration
And Results From Districts That Received A Request
2020 To 2022



Note: 97 of 171 superintendents responded to the survey.

Source: LOIC Request for Reconsideration Survey, sent to Kentucky district superintendents May 5, 2023.

Harmful To Minors **Complaint Resolution Process Excludes Superintendents;** **Model Policy Does Not Fully Align With KRS 158.192(3)**

The Harmful to Minors Complaint Resolution process excludes superintendents, who are the primary authority for instructional materials selection for the schools in their districts.

The Harmful to Minors Complaint Resolution process excludes a primary stakeholder in the materials selection process, and the guidance for the process does not include all the steps set forth in legislation. Superintendents are responsible for the selection of instructional material and could be a useful voice in resolving parental complaints. Excluding superintendents also makes future planning more difficult because superintendents could become less aware of materials that caused issues. The policy for the process also does not include the final level of parental appeal and could inadvertently prevent parents from using the appeal.

Request For Reconsideration Process

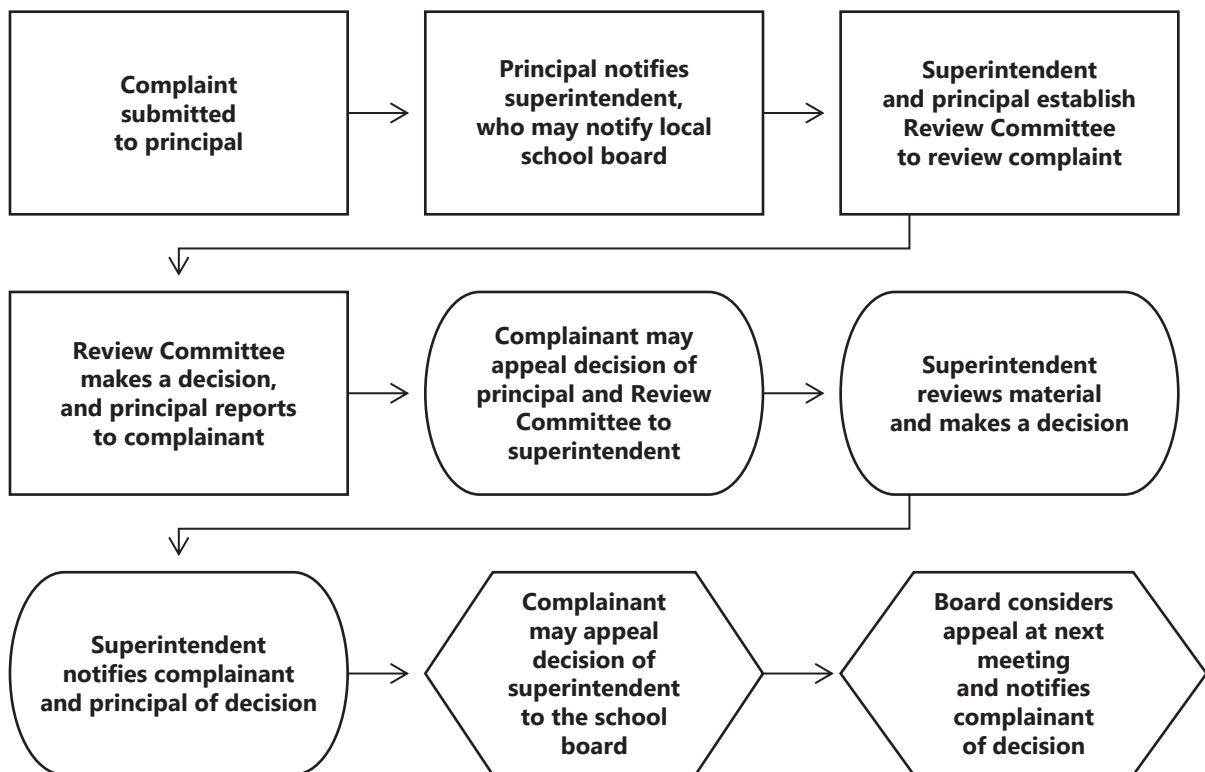
Prior to 2023, parental objections to instructional materials, on the basis of inappropriateness, were resolved via the Request for Reconsideration process.

Prior to 2023, the formal process for reconciling parental objections to instructional materials, on the basis of inappropriateness, was the Request for Reconsideration process. The Kentucky School Boards Association created the policy,

which was promulgated as policy 08.2322 and administrative procedures 08.2322 AP.1 and 08.2322 AP.21. The policy and the procedures were available across all Kentucky school districts.

Parents with concerns about materials provided to their children in classrooms could complete a Request for Reconsideration form. The completed form would be submitted to the principal, who—along with a review committee established by the district superintendent—would make the initial decision on whether the material was to be retained for all students, reassigned for the student in question, or replaced for the entire student body. Parents would be notified of the principal’s decision via a Reconsideration Decision form established by administrative procedure 08.2322 AP.23. Parents dissatisfied with a principal’s decision could appeal to the superintendent, who would review the decision and make a determination. A parent who disagreed with the superintendent’s decision could appeal to the local school board for a final decision. Figure 3.C provides an overview of the Request for Reconsideration process.

Figure 3.C
Request For Reconsideration Process



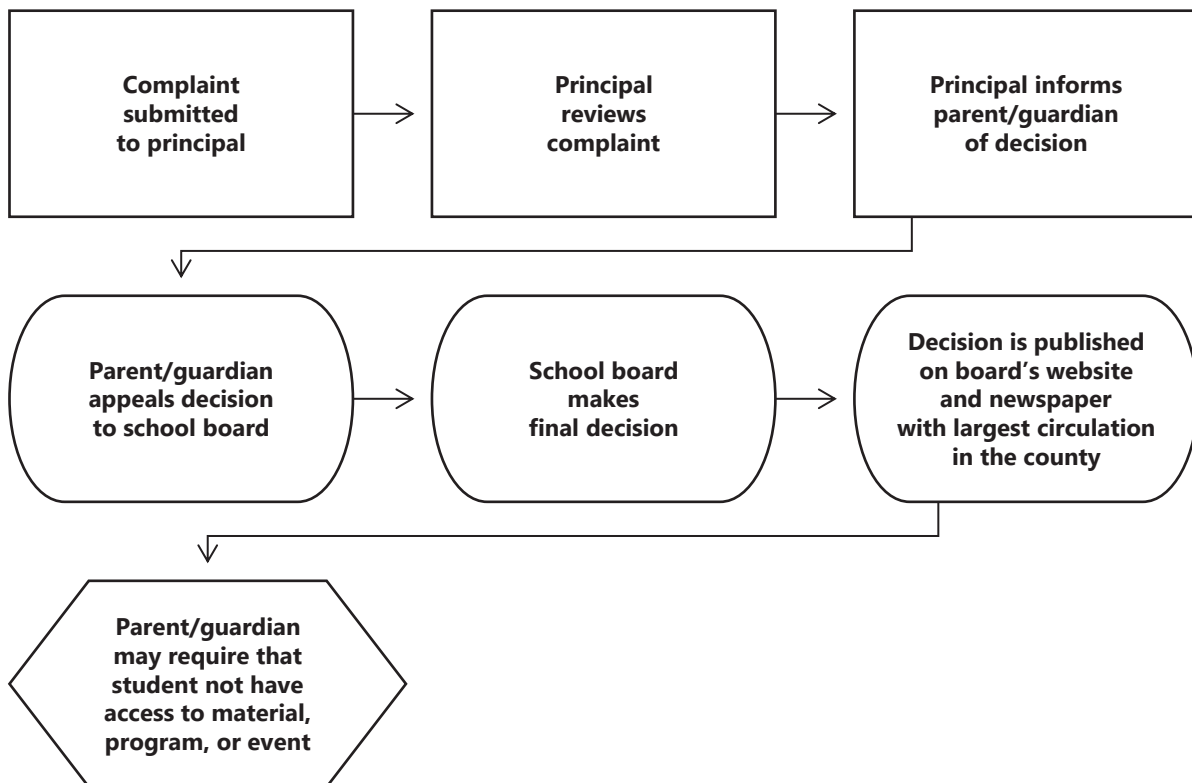
Sources: Kentucky School Boards Association and Kentucky Department of Education model policy 08.2322 and administrative procedures 08.2322 AP.1 and 08.2322 AP.21.

Harmful To Minors Complaint Resolution Process

SB 5 (2023 RS) created the Harmful to Minors Complaint Resolution, which superseded the Request for Reconsideration process.

During the 2023 Regular Session, SB 5 created the Harmful to Minors Complaint Resolution.⁷⁸ Complaints under the new system are submitted directly to the principal rather than to the principal and a review committee. If unsatisfied with the principal's decision, the parent may appeal the decision directly to the local school board rather than appealing first to the district superintendent. The board's decision must be published on the board's website and with the local newspaper. Once the school board makes a final decision, a parent or guardian may make a final request that the school ensure his or her student does not have access to the material. The school is obligated to comply. Additionally, any parent or guardian not having filed the appeal may access the appealed materials for review. Figure 3.D provides an overview of the Harmful to Minors Complaint Resolution process.

Figure 3.D
Harmful To Minors Complaint Resolution Process



Sources: Kentucky. General Assembly. *Acts Of The 2023 Regular Session*, ch. 120; Kentucky School Boards Association/Kentucky Department of Education model policies 08.23, 08.23 AP.21, 08.2322 AP.21, and 08.2322 AP.23.

Unlike the Request for Reconsideration process, the Harmful to Minors Complaint Resolution process does not include any role for superintendents. Given that SB 1 (2022 RS) gave superintendents full authority over curriculum development and instructional materials selection for their districts, excluding superintendents removes an important stakeholder from the process. In survey responses and interviews with LOIC staff, superintendents noted that their omission from the Harmful to Minors Complaint Resolution process may conflict with their mandate to bear responsibility for curriculum development and instructional materials selection.⁷⁹ KDE reported support for the decision to include superintendents in the Harmful to Minors Complaint Resolution process.⁸⁰

Matter For Legislative Consideration 3.4

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Consideration 3.4**

The General Assembly may wish to amend the Harmful to Minors Complaint Resolution Process, as established in KRS 158.192, to include a role for school district superintendents.

SB 5 required that KDE promulgate a model policy for the Harmful to Minors Complaint Resolution process that met the requirements outlined in statute.⁸¹ KDE promulgated this policy in May 2023, but the implemented policy did not include the final level of parental appeal—specifically, that after a local school board determines a final disposition, a parent or guardian may request that the school ensure his or her student does not have access to the material. The school must comply with the request. The risk of not including this step in the model policy and administrative procedures for the Harmful to Minors Complaint Resolution process is that it may cause parents to be unaware of all of their options and rights.

Recommendation 3.6

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The Kentucky Department of Education should revise model policy 08.23 and procedure 08.23 AP.21 to include the full process for the Harmful to Minors Complaint Resolution process as outlined in KRS 158.192, by including the provision that parents can request that their child not have access to a material retained following appeal to local school boards.

Appendix

Response From Kentucky Department Of Education

Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Robin Fields Kinney
Interim Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov

November 3, 2023

Senator Brandon J. Storm, Chair
Representative Adam Bowling, Chair
Legislative Oversight and Investigations Committee
Legislative Research Commission
700 Capital Ave.
Frankfort, KY 40601

Dear Chairs Storm and Bowling:

This letter is in response to the “K-12 Curriculum Development and Instructional Materials Selection” report provided to the Legislative Oversight and Investigations Committee. The KDE response will be included in the final committee draft.

Per the report findings, the Kentucky Department of Education (KDE) agrees that the State Textbook Commission (STC) has not met since 2015 due to insufficient funding. KRS 156.400(3) establishes, “The chief state school officer may delay the purchase of books due to insufficient funds....” Yet, despite a lack of sustainable funding, the agency has worked to ensure many of the key responsibilities of the STC have continued to be accomplished.

Despite the delay in convening the STC due to insufficient funding, school districts must still review, select, procure and manage instructional resources. District staff are needed to coordinate this process regardless of whether the STC meets. Therefore, local high-quality instructional resource (HQIR) coordinators continue to carry on their functions. The KDE supports HQIR coordinators with numerous resources, including the statutorily required consumer guides for the evaluation of instructional resources, per KRS 156.405. The Model Curriculum Framework (MCF), required in KRS 158.6451, also establishes a curriculum development process, including the selection of HQIRs, and instructional resource alignment rubrics are published for reading and writing, mathematics, science and social studies as well.

In fall 2019, the KDE further established the Quality Curriculum Task Force (QCT) to review guidance and provide feedback on the tools and resources needed for local HQIR evaluation and selection. The taskforce is a 21-member group of educators that includes district leaders, teachers, library specialists, educational cooperative representatives, and university faculty. Members provide annual feedback on the MCF, the curriculum development processes of districts, consumer guides and any new resources developed.

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The KDE also meets with members of the content specific Advisory Panels and Review Committee established in KRS 158.6453 who review and revise the Kentucky Academic Standards (KAS). The standards writers serve as instructional resource reviewers by providing feedback on the alignment to the KAS and the gateways established in the consumer guides. Thus, they are the first to inform and provide feedback on the gateways and characteristics of high-quality as it relates to the KAS. After the instructional resource reviewers provide feedback, the KDE meets with the QCT for feedback on the consumer guide prior to statewide publication. The consumer guide is also field tested with “Developing High-Quality Local Curriculum” pilot districts prior to statewide publication.

The KDE contends that the processes with the standards writers and the QCT better meet the needs of educators than the STC. No longer are instructional resources merely textbooks; this space in the education field has undergone much change. National independent, non-profit providers, such as EdReports, do the complex work of vetting materials on behalf of state and local education agencies. These providers function as a sort of “consumer reports” clearinghouse on instructional materials. As stated in the report, “EdReports works with Kentucky teachers to align their review tools with the [Kentucky Academic Standards], and KDE works with EdReports to verify alignment” (16). The KDE encourages superintendents, district leaders and all of those serving on local teams to begin their selection process with the green-rating resources. These allow for a baseline of high-quality with the flexibility needed for local control.

The STC would require the committee to vet its own resources duplicating the efforts that providers, such as EdReports, do all year round but on a much tighter schedule for the committee. It also may lead to a shorter list of approved resources simply due to time and capacity constraints. The KDE would need to convene the STC and conduct the process for ELA, math, science and social studies at a minimum. Resource vetting takes great expertise and experience, and most educator preparation programs are just now starting to train pre-service teachers in resource selection.

Also, there are many more components to instructional resources now that did not exist in more traditional textbook adoptions. There are digital components; resources for differentiation; aligned assessments, etc. Part of what makes the resources high quality is the extensiveness of the resources themselves, which are intended to support teachers in meeting the diverse needs of their students. This adds to the time and review that is already done by partners, such as EdReports.

The KDE also can no longer envision state-level vendor contracts for these resources since superintendents now have the authority to develop curriculum and select all instructional resources across districts per KRS 160.345. Moreover, if superintendents can continue to make off-list selections, the KDE argues the focus of the instructional resource reviewers and the QCT should be the curation of the best evaluation tools possible. Ultimately, the KDE would not recommend reconstituting the STC without sustainable funding and significant changes to the statutory requirements governing the STC.

The KDE can provide the Legislative Oversight and Investigations Committee, the Interim Joint Committee on Education, the Interim Joint Budget Review Subcommittee on Education, and the Legislative Research Commission by June 1, 2024, a report detailing the justification for the inactivity of the State Textbook Commission since 2015 and the decision of the KDE Commissioner to not convene the commission and fulfill its statutory responsibilities. However, such report would primarily consist of the information contained herein and therefore may not be necessary. In addition, the KDE

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addressed this in the formal response to the Office of Education Accountability (OEA) 2018 draft report “Textbooks and Instructional Materials.” The KDE position has not changed since the previously established response.

By June 1, 2024, the KDE can also provide the Legislative Oversight and Investigations Committee, the Interim Joint Committee on Education, the Interim Joint Budget Review Subcommittee on Education, and the Legislative Research Commission with the following:

- An estimate of the budgetary requirements for operating the STC as well as a review of the funding mechanisms for the Commission; and
- An evaluation of the best current use for the STC given budgetary constraints, the changing landscape of instructional materials, and the placing of authority over curriculum and instructional resources at the district level.

The KDE disagrees with Recommendation 3.4. The KDE would not recommend reconstituting the STC without sustainable funding and significant changes to the statutory requirements governing the STC. As stated herein, the KDE is utilizing standards writers as instructional resource reviewers and the QCT to fulfill key requirements of the STC. The KDE’s current activities outlined herein serve as the plan and will be shared as part of the report on Recommendation 3.3. Therefore, KDE does not believe an additional report is necessary.

The KDE agrees with report findings that pursuant to its current legal authority it could only compile and maintain a list of district-adopted primary instructional materials based upon voluntary information provided by school districts. The KDE does not currently have the authority to require school districts to provide KDE information on the instructional materials that they have adopted. However, KDE will consider whether the Kentucky Board of Education has the authority to promulgate a regulation regarding this. The KDE further agrees that the Legislature may wish to consider adding language to KRS 156.445 to provide KDE with this authority by requiring that local school district superintendents annually report to KDE the primary instructional materials they have adopted for K-12 courses. The KDE agrees to conducting an annual voluntary survey of school districts to compile information on the different instructional resources used. The KDE also agrees to include on the list information that KDE determines would aid districts in the selection of instructional materials and to update the list at least once every school year.

The KDE also agrees that model policy 08.23 and procedure 08.23 AP.21 do not specifically address KRS 158.192(3) and agrees to revise the model policy and procedure accordingly.

The KDE appreciates the collaboration with the research analysts for the Legislative Oversight and Investigations Committee, and we also thank the district leaders who participated in surveys and conversations to help inform the report findings and recommendations.

Sincerely,



Robin Fields Kinney
Interim Commissioner of Education

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