

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes

September 18, 2018

Call to Order and Roll Call

The 3rd meeting of the Office of Education Assessment and Accountability Review Subcommittee was held on Tuesday, September 18, 2018, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Daniel Elliott, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Daniel Elliott, Co-Chair; Senators Gerald A. Neal and Mike Wilson; Representatives Derrick Graham and Regina Huff.

Guests: Erin Klarer, KHEAA.

LRC Staff: Josh Collins, Yvette Perry, and Christal White.

Approval of Minutes June 19, 2018

On a motion by Representative Graham and a second by Representative Huff, minutes of the June 19, 2018 meeting were approved by voice vote.

OEA Report on Homeschooling in Kentucky

The Office of Education Accountability (OEA) presented a report on Homeschooling in Kentucky. This report was approved by the subcommittee as part of the 2018 Research Agenda and provided information about homeschool enrollment. OEA staff presenters were David Wickersham, Deputy Director; Dr. Bart Liguori, Research Division Manager; and Dr. Deborah Nelson, Research Analyst.

The five homeschool categories presented by Dr. Nelson were background and major conclusions, enrollment, available outcomes, Kentucky and national laws, and challenges enforcing Kentucky law.

Dr. Nelson stated that the Kentucky Constitution protects the right to educate a child consistent with the conscience of a parent or guardian. While homeschool advocates sight social and academic benefits, public school officials have a major concern homeschooling is used as a means to avoid truancy charges. Other reasons cited for

increased homeschool enrollment are religion, flexibility, and safety. Homeschooling in Kentucky includes instruction solely in the home, home instruction combined with online education, tutors, part-time or full-time enrollment in a non-accredited school, or homeschool cooperatives. Homeschool parents attend conventions and workshops with their children and invited OEA to attend a workshop led entirely by current or former homeschool students advocating homeschool interests.

Data used in the report was based on results of an OEA staff survey from school district Directors of Pupil Personnel (DPPs), staff review of homeschool laws in other states, Kentucky Department of Education (KDE) data, the Kentucky Council on Postsecondary Education (KCPE) data, and interviews with officials from school districts, Cabinet for Health and Family Services (CHFS) staff, Administrative Office of the Courts (AOC) staff, and homeschool parents and groups. The report summarizes available data and reviews legal requirements for homeschools in Kentucky compared to other states and describes challenges in enforcing Kentucky laws.

Dr. Nelson explained that homeschools are considered by KDE to be private, unaccredited schools operated by parents or guardians and receive no financial support from the state. In a survey by Christian Home Educators of Kentucky (CHEK), members said the most frequent reason for homeschooling was lack of trust and information provided by public schools.

Kentucky homeschool enrollment has increased, slightly exceeding the national average. Outcome and demographic data for the majority of homeschooled children are not available in Kentucky or the nation; however, available data indicates that homeschool graduates who enroll in Kentucky colleges outperform public school graduates although enrolling in lower percentages. A homeschool diploma may not have the same legal status an accredited school provides.

Dr. Nelson said Kentucky requirements for homeschools are higher than some states but lower than others. Homeschool groups believe Kentucky law provides accountability for education although many DPPs report insufficient accountability and express concern that some families take advantage of flexibility in homeschool laws to avoid legal consequences of public school truancy. DPPs' authority to monitor or enforce homeschool laws is limited and accountability rests ultimately with CHFS or local courts under laws pertaining to lack of adequate education for children and considered a form of child neglect in Kentucky.

Other challenges faced enforcing homeschool laws include the division of monitoring and enforcing responsibilities among DPPs, KDE, and AOC; minimum criteria required for homeschool attendance and scholarship reports; and time limitations for public officials responsible for enforcing laws. The report notes that statute permits

greater roles for the Kentucky Board of Education (KBE) in clarifying requirements for homeschool attendance and KDE in reviewing these reports.

Dr. Nelson indicated over 26,500 Kentucky school-aged children were reported as being enrolled in homeschool in 2017, or 3.6 percent compared to the national average of 3.3 percent. Although historical data is not available in Kentucky, the national percentage of students who entered homeschooling has more than tripled since the 1970s. It is nearly impossible to distinguish the number of students who are homeschooled compared to those being reported. The majority of homeschool students in Kentucky fall within a few percentage points of the state average, with seven districts having less than one percent and ten districts having more than seven percent. There is little association among districts in the percentage of students being homeschooled and the percentage of students in the district considered to be living in poverty. The report noted that the percentage of homeschool students is typically lower in independent districts versus county districts.

Figures are skewed by students never enrolled in public schools, students previously enrolled in public school and transferred to homeschools, and those who transfer from homeschool and returned to public school within a year. In recent years, studies indicate elementary and middle students experienced steady but moderate increases in transferring to homeschools. In 2016, the number of students in grades 9 through 12 transferring to homeschools increased, possibly associated with the anticipated change of the legal dropout age from 16 to 18. Forty-six percent of DPPs believe families are transferring to homeschool to avoid legal consequences of public school truancy, including fines and withdrawal of driving privileges.

Dr. Nelson said chronic absence was defined as ten percent or more absences of days enrolled. In 2017, chronic absences among students who were subsequently homeschooled was four times greater than currently enrolled public students. Chronic absence does not necessarily indicate reluctance of a child or parent to educate the child since social anxiety or fear for school safety may be contributing factors prior to withdrawal.

Homeschool academic achievement and outcome data in Kentucky and the nation is limited. The majority of homeschool students' outcome data is unknown since KDE lacks authority. In 2017, Dr. Nelson said 400 homeschooled students were enrolled in dual credit classes compared to 25,032 students from public and other schools. Other schools include private or religion-based schools. Seventy-three percent of homeschooled students, 57 percent of public school students, and 60 percent of students in the other category maintained a grade point average (GPA) of 3.5 or higher. The data also revealed the number of homeschool students with a GPA below 2.0 was nearly half of those who attended public and other schools. The average ACT composite score for homeschool students was slightly lower than the other student category and slightly higher than public school students. Comparison of these groups during their first year of college revealed 61

percent of homeschool students, 41 percent of public schools students, and 49 percent of other students maintained a GPA of 3.5 or above. The homeschool group had a lower percentage of students who earned a GPA of 2.0 or less than public and other schools. Also noted is that less than 20 percent of homeschool students enroll in Kentucky institutions compared to approximately half of public school graduates.

Homeschool parents interviewed for this study reported that homeschool children are actively recruited by colleges because they are known to be academically prepared and have good work ethic. Parents said homeschool students learn to manage their time and studies, be independent, and experience real world situations. Homeschool parents shared names of prominent Kentuckians who are homeschool graduates.

Dr. Nelson said that Kentucky compulsory homeschool attendance laws require all school-aged children attend public school unless statutory requirements are met. Homeschools are required to report enrollment to school districts annually and keep attendance and scholarship reports. While these two items are subject to direct monitoring by DPPs, required subjects and duration of the school term are not monitored.

Kentucky homeschool laws are difficult to compare with other states since Kentucky offers one legal homeschool option while other states offer two or more. Some states have higher requirements than Kentucky in the primary homeschool option while others have much lower requirements. Alternative options are often based on religious or conscientious objections to public school education. The report provides a broad comparison of Kentucky requirements with all 50 states and a more detailed comparison with surrounding states. Comparison with the surrounding states shows similar results, with both higher and lower requirements. Comparisons are complicated considering legal requirements and the manner in which they are executed.

In response to a question by Representative Graham, Dr. Nelson said Kentucky does not require the reporting of outcome data annually as required in some states but agrees outcome data should be included. Fourteen states require homeschools to report outcome data; however, comparisons appear more rigorous on paper than are actually enforced. Dr. Nelson said it is possible to contact each state which requires outcome data to determine the number of laws each state has and the public resources devoted to enforcing the laws. Representative Graham requested this information be made available to members. He expressed concern about the cost to Kentucky when students do not register in the public school system and subsequent related costs once they become adults and are unable to find employment due to lack of skills or a formal education. In response to his question, Dr. Nelson said OEA has identifying information for students who withdrew after being enrolled in public schools but was unable to gather information on those who were never enrolled. She said the reporting of social security numbers, birthdates, and other personal information to allow for tracking would require a statutory change, at which time lost funds to specific districts could be calculated. Dr. Nelson said

the effort required to analyze the data would be minimal once available data is entered into the system; however, accruing the information would be a difficult process.

Dr. Nelson said that DPPs have strong concerns about Kentucky homeschool laws. Almost half responded it is nearly impossible to enforce compulsory attendance laws for homeschools and less than one third said it is likely that a homeschool not educating children will face consequences unless there is evidence of physical neglect or abuse. Many DPPs believe Kentucky homeschools should have minimal requirements for attendance and stronger requirements for outcome data and scholarship reports.

Based on interviews, homeschool advocates believe sufficient accountability exists under current law and that higher requirements would place an undue burden on families educating children without state support. They feel some forms of accountability in other states compel parents to make choices which are not beneficial to a child's education. Kentucky law gives children a fundamental right to educational instruction and lack of adequate education is considered a form of child neglect in Kentucky.

Dr. Nelson said DPPs have the duty to enforce compulsory attendance laws but do not have authority to monitor or enforce all homeschool requirements associated with the laws. They are directly authorized only to monitor whether enrollment is reported annually and request and review scholarship and attendance reports. Without legal guidance and minimum standards, DPPs are confused about criteria used in reviewing reports, how to report concerns, how to deal with conflicting information received from various sources, and withdrawals from public school due to truancy. A DPP or any CHFS or Department for Community Based Services (DCBS) staff member has a legal obligation to report to authorities if they have legitimate concern about the quality of educational being provided.

Dr. Nelson said CHFS, DCBS, and local courts have legal authority to take action on charges of educational neglect. If substantiated, CHFS can investigate in the interest of a child are not being met and design a case plan requiring the parent to provide education. If conditions of the plan are not met, the case worker can refer the family to court, the county attorney can order a court appearance, and a judge may require a parent to produce evidence of education or enroll them in public school. Neither the cabinet nor the local courts are required to take any specific action on reports of neglect. OEA found these agencies have discretion in how reports are handled and found educational neglect alone is unlikely to be addressed unless child neglect or abuse appear present.

The report notes two challenges with the implementation of Kentucky laws requiring children to be educated as they apply to homeschools. The authority to monitor and enforce the laws is dispersed among various individuals and entities. CHFS and local courts have discretion to take specific actions on reports of educational neglect while DPP, the public school official designated to enforce the laws, lacks authority to require

change made for accountability. There is little guidance in the law for DPPs to ensure that homeschool children are educated and that determination is made at the discretion of judges or caseworkers.

Dr. Nelson indicated that in an attempt to clarify the responsibilities of homeschools and DPPs, a best practice document was developed in 1997 and updated by the CHEK, Kentucky Home Education Association (KHEA), DPPs from four Kentucky districts, and the KDE liaison for nonpublic schools. It outlines the requirements and huge responsibility for families wanting to homeschool and describes and interprets the laws relating to attendance and scholarship reports. Many DPPs are confused about the document as to whether it represents law or informal guidance.

DPPs, CHFS, and courts report there are limitations of time and personnel available to address their many duties as described under the law. DPPs feel their primary responsibility is to address duties related to public school attendance whereas CHFS or local courts may prioritize report of physical abuse, educational neglect, or case overload.

While many DPPs sight concerns about accountability, almost one-third report concerns that homeschool parents or guardians who are not educating will not ultimately face consequences of educational neglect without other forms of neglect or abuse due to lack of time and employees' heavy workloads.

Dr. Nelson said that all findings contained on the report relate to the potential for greater clarity and guidance under existing laws as they apply to homeschools, especially KRS 159.040, which authorizes but does not require the roles of KBE and KDE. KRS 159.040 state that attendance at private and parochial schools shall be kept by the authorities of such in a register provided by the KBE, and such school authorities shall make attendance and scholarship reports in the same manner as is required by law or by regulation of the KBE of public school officials. Such schools shall at all times be open to inspection by DPPs and officials of KDE.

Dr. Nelson's said OEA staff concluded that homeschool enrollments are increasing in Kentucky and the nation but vary among districts, outcome data for the majority of homeschool children is not available, Kentucky requires more from homeschools in some states and less than others, many DPPs have concerns about insufficient accountability for homeschools, and current law allows room for greater clarification of homeschool requirements.

In response to a question by Senator Wilson, Dr. Nelson said OEA found that only a minority of truant students withdrew and began homeschooling. She said 15 percent of DPPs reported that social anxiety, mental health, bullying, and decisions being made by school administrators were the top reason for withdrawing from public school and enrolling in homeschool. Dr. Nelson said almost five times as many students withdraw

and then re-enroll, but coding errors skew the number of students returning from homeschools to public schools. While OEA staff tracked the achievement of students who returned from homeschool, they felt it would be misleading to present the findings due to the small percentage of homeschool responses. Dr. Nelson said data for incoming homeschooled students is not distinguished between students who have never been in public schools or students who have re-enrolled. Additionally, a separate category relates to public school students who are highly mobile and numbers are hard to capture. The student information system has the capacity to monitor these students if a unique identifier were provided.

In response to a question by Representative Graham, Dr. Nelson said that KRS 159.040 states that current law allows room for greater clarification of homeschool requirements in the same manner as required by law or by regulation of public school officials. If KDE proposed a regulation about required information in a scholarship report, it would also apply to homeschool students. Dr. Nelson said tracking students would require a statutory change to include legal guidance regarding information included in attendance and scholarship reports and could be useful in a judge's determination to see if students are educationally neglected. She said DPPs who have previously engaged with truant students may have observed red flags such as the lack of books or instructional materials, lack of electricity or internet connection, or being homeless. Dr. Nelson said DPPs can authoritatively ask for only a school attendance and scholarship report that provides minimal information. The regulation is flexible enough for homeschools to skirt stricter guidelines, which could provide public school officials with valuable information to ensure a quality homeschool education.

Dr. Nelson said OEA conducted eight interviews with superintendents and DPPs to understand their concerns. A good representation of large and small, rural and city schools were included in the interviews. In response to Representative Graham's question about revising the statutes, Dr. Nelson said most DPPs expressed concern about the requirements but a variety of concerns were expressed among each district. She said while one DPP may work closely with the county attorney and CHFS, other districts may have no accountability.

On a motion by Senator Wilson and a second by Representative Huff, OEA's report, *Homeschooling in Kentucky*, was adopted by voice vote.

Representative Elliott said tension exists between homeschools that are providing an acceptable education as opposed to those who are abusing the homeschool privilege. He said Kentucky needs to revisit legislation, but it is difficult to make an informed decision due to lack of statistics.

In response to a question from Representative Graham, Dr. Nelson said it difficult to know if a majority of homeschool students are provided with proper tools to succeed

beyond high school without more data. She said only a small minority of DPPs had grave concerns about a few homeschool families but are not concerned about the majority.

There being no further business, the meeting adjourned at 2 p.m. The next meeting will be held Tuesday, October 16.