

**A Resource for Kentucky's
School Board Members**



KSBA School Board Leadership Guide



Dear board member:



The KSBA School Board Leadership Guide summarizes the most essential aspects of school board leadership and we believe you will find the new edition to be more manageable, readable and useful in your day-to-day duties as a board member. This is not intended to provide you with all the information and background you will need during your service, but rather serve as a starting point, with more detailed content available through our conferences, workshops, publications and the Academy of Studies.

As a local school board member, you represent the very best of our American democracy and its tradition of volunteerism. Your local community has elected you to oversee two very important tasks: the education of its children and the stewardship of the tax dollars that make public education possible. This School Board Leadership Guide contains basic information on a wide range of issues and topics related to these and other tasks. We hope it will help you navigate the increasingly complex world of school board service – a world in which boards are asked to increase student achievement with ever-dwindling resources – and make your job less overwhelming.

Since no single source can possibly address all your questions and concerns, I hope you will also use our website (www.ksba.org) and feel free to contact any of the KSBA staff at 1-800-372-2962.

We are proud to serve you and the other board members of Kentucky's 173 local school districts.

Sincerely,

A handwritten signature in black ink that reads "Kerri Schelling". The signature is fluid and cursive.

Kerri Schelling, CAE
Executive Director

NOTE: *The KSBA School Board Leadership Guide is intended as a general informational resource for school board members. It is not intended as a substitute for legal advice or for the actual text of legal authorities discussed or cited in the Guide. Legal precedents, statutes and regulations are subject to change. School leaders and others should consult the official text of statutes, cases, regulations, opinions of the attorney general and other authoritative materials cited or discussed in the Guide and should individually consult an attorney for up-to-date advice regarding potential application of legal precedents to their specific fact situation.*

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Chapter 1

The Players

The structure of public education in Kentucky

The Kentucky Constitution requires the General Assembly to establish an “efficient” system of common schools throughout the state. The term “common school” originated in the 1800s as part of a movement advocating for public education that was consistent across all communities, such that all students in poor and wealthy areas, and urban and rural, would have the same or “common” curriculum offered to them, by teachers with the same or “common” training. To that end, the Kentucky General Assembly by statute has created a system for elementary and secondary education. Local boards of education were created by the legislature to represent the community and provide local oversight of education within each district.

Legal environment of local boards of education

Local boards of education are governmental bodies that must comply with federal and state constitutions, statutes and regulations, and must not act contrary to those requirements. For example, personnel policies adopted by a local factory may not be legally suitable for a school district because the district is subject to constitutional, statutory and regulatory provisions that do not apply to a factory. As long as a local board is acting within the authority granted to it, it has the discretion to make choices and decisions that meet local needs and are in the best interest of the district.

The state educational hierarchy

The Kentucky Constitution

In addition to requiring the General Assembly to create an efficient system of public education, the state constitution also addresses the funding of public schools and places limitations on how those funds are used. However, the constitution also applies in other ways. For example, it prohibits governmental entities, including school districts, from acting in an “arbitrary” manner, which means that all actions of a district must be for educational purposes and not be unconstitutional or discriminatory. The state constitution is the foundation for understanding public education in Kentucky.

The state courts

State courts are the primary interpreters of the state constitution and review legal challenges to district action. The Kentucky Education Reform Act of 1990 resulted from a Kentucky Supreme Court ruling that the state had failed to provide an “efficient” system of education as required by the state constitution. State courts have issued many decisions through the years that address all areas of district operations, from personnel actions to student discipline. The Kentucky School Laws, published by the Kentucky Department of Education, contains short descriptions of court cases. Board members should be cautious when using those descriptions because many of them have been supplanted by later cases or by amendments to the statutes. It’s best to consult local counsel to confirm the current judicial interpretation of a particular law.



Q. Can a school board file a lawsuit?

A. Yes. Boards of education may sue or be sued.

The governor

The governor submits an executive budget to the General Assembly on behalf of executive branch state agencies, including proposed spending for public education. The General Assembly may adopt all, some, or none of the governor's proposal when it approves the state budget.

The General Assembly

Education laws passed by the General Assembly are found mainly in six chapters of the Kentucky Revised Statutes, KRS chapters 156 through 161. These statutes address all main areas of public education, from curriculum to student discipline and from personnel action to district finance. The General Assembly also is responsible for adopting the state budget, which provides state funding for public education.

The General Assembly may authorize other bodies, such as the Kentucky Board of Education and local boards of education, to approve policies that further advance education, as long as the policies are within and consistent with the authority granted to those bodies. In this hierarchy, the legislature enacts statutes, the state board of education enacts regulations to carry out the intent of the laws, and local boards adopt policies to provide a framework for district action within the statutes and regulations.

The Kentucky Board of Education

By statute, the Kentucky Board of Education is composed of 11 voting members appointed to four-year terms by the governor. The president of the Council on Postsecondary Education is an ex-officio, non-voting member. The general powers and duties of the state board are assigned in KRS 156.070. They include managing and controlling schools and all programs operated in the schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

While the state board performs certain direct administrative functions affecting local districts, its principal role is to adopt administrative regulations that carry out and provide the details of how legislation passed by the General Assembly will be implemented. Regulations are proposed by the state commissioner of education and then presented to the state board for consideration and adoption. Before presenting a regulation to the state board, the commissioner is required to submit all proposed regulations to the Local Superintendents Advisory Council for its review and input. The council consists of 11 local school superintendents appointed by the Legislative Research Commission, which comprises the joint leadership of the General Assembly.

The commissioner of education and the Kentucky Department of Education

The commissioner of education is the chief state school officer. He or she is appointed by the Kentucky Board of Education and serves at the board's pleasure. The powers and duties of the commissioner are those set by the General Assembly through legislation. Among them is to be the executive officer of the state board of education in carrying out its statutory duties and implementing its policies.

The commissioner is responsible for the day-to-day administration of the education department, much as a local superintendent is responsible for the day-to-day administration of the local district. Most of the routine interaction between local districts and the state will be with the department of education and the commissioner.

Local boards of education

To carry out public education at the local level, the General Assembly created locally elected boards of education. According to KRS 160.160, the local board exists to manage and control the school district. Local boards are composed of five members, except for Jefferson County, which has seven members. There are two types of local districts, independent and county. Each county is represented by a county school district board; independent boards represent districts in communities within the counties. Like the state board of education, the local board has certain direct administrative functions to perform, including adoption of an annual budget and consideration of student disciplinary matters such as expulsions; however, the principal role of the local board is to adopt policies that provide direction for the administration of the district.



Q. Is there a federal role in state and local education?

A. The federal government affects local boards in two main ways: through United States Constitutional provisions that apply to local districts (and the judicial decisions that interpret them) and through federal programs that often require compliance to receive federal funds, such as the Every Student Succeeds Act. For example, the First Amendment to the U.S. Constitution applies to local school districts and may come into play on issues such as student or employee free speech. Federal statutes also apply, such as the Individuals with Disabilities Education Act (IDEA), the federal law addressing the education of exceptional children; or Title VII, the federal law that addresses certain forms of discrimination. While there are many federal agencies that may interact with local school districts, such as the U. S. Department of Labor, the principal agency for education is the U. S. Department of Education. That agency oversees many of the federal education programs and enacts federal education regulations.

Sometimes the Kentucky Department of Education is designated as the state's agent for overseeing federal funds and programs. Even in those cases, however, the federal government retains ultimate authority over federal programs.

Office of Education Accountability

The Office of Education Accountability is an administrative agency of the legislature and specifically reports to the Education Assessment and Accountability Review Subcommittee. OEA is responsible for monitoring the education system and the implementation of the Kentucky Education Reform Act. It monitors all agencies of elementary and secondary education, including local boards of education. OEA has the right to access all public records of the state education department and local districts, as well as confidential records, meetings and hearings on local school district personnel matters. OEA has no enforcement authority; that authority rests with the Department of Education, the Kentucky Board of Education and the Kentucky attorney general. Its findings are referred to agencies with jurisdiction over the allegations, which may include the commissioner of education and/or the state board of education.

OEA cannot issue directives to local boards of education. The agency can make findings based upon its investigation and make suggestions to local districts if it believes the district or individuals are not complying with law.

If OEA issues a finding of noncompliance and there is a legal basis for the finding, the district or individuals involved should make a good-faith effort to correct the matter.

In addition to its investigative authority, OEA conducts studies relating to educational issues and provides input to the legislature regarding potential legislation.

School councils

School councils – also called school-based or site-based decision making councils, or SBDMs – are established by statute and are responsible for adopting school policies aimed at improving student academic performance. Each local board of education is required to have policies providing for school councils, and each school must have a school council unless exempted under law. Like the state board of education and the local board of education, the council's primary role is policymaking, with the day-to-day administration left to the principal, who is subject to the policies the council adopts. While there are exceptions in the statute, the typical council is composed of two parents, three teachers and the principal.

The council is subject to all federal and state laws, and board policies; however, in areas specified by statute the council has the authority to adopt policies it believes will promote student achievement at the school as long as the policies are not arbitrary, discriminatory or in conflict with established legal rights such as contractual rights. Among other areas, the council is required to adopt policies on curriculum, instructional and noninstructional staff time, assignment of students to classes and programs within the school, use of school space during the school day related to improving classroom teaching and learning, and planning and resolution of issues involving instructional practices.

Board responsibility and policies intersect with council responsibilities in some instances. For example, while the council can determine the schedule of the school day and work day, that determination is subject to the beginning and ending times of the school day and school-year calendar, which are set by the local board of education. Likewise, each council adopts a budget for the school but must work within the funds made available to it in the district budget adopted by the local board of education.

Some controlling statutes and regulations for this chapter: Kentucky Constitution §§ 2; 183; 184; 186; KRS 160.160; 156.070; 156.010; 156.029; 7.410; 160.345



Chapter 2

The Local Board of Education

Local control is a public trust

Communities elect representatives to local boards of education to serve as their trustees. A board member holds power in trust for everyone and every group in the district, whether elected districtwide or by division. A board member must carry out responsibilities for the benefit of, and in the interest of, everyone in the school district.

Duties of the local board of education

The General Assembly and Kentucky Board of Education have delegated much of the responsibility for organizing and conducting educational programs to local boards of education and to school councils. This means that boards and councils are extensions of state government; local board members are considered state officers, receiving their authority and responsibility from the General Assembly.

The general powers and duties of the local board are outlined in KRS 160.160 and 160.290, but additional responsibilities of a local board are also detailed in other statutes.

Among the major duties of the board:

- ▶ Establish schools, acquire sites and erect buildings.
- ▶ Adopt courses of study.
- ▶ Provide necessary services to pupils.
- ▶ Manage all funds and property.
- ▶ Make appropriate rules, regulations and bylaws.
- ▶ Appoint a superintendent of schools. (KRS 160.350)
- ▶ Adopt a budget. (KRS 160.470)
- ▶ Take necessary action to levy needed taxes. (KRS 160.460-160.500)
- ▶ Assess individual student progress. (KRS 160.345)
- ▶ Establish graduation requirements over and above state regulatory minimums.
- ▶ Adopt a plan for immediate and long-term strategies to address school safety and discipline. (KRS 158)
- ▶ Formulate a code of acceptable student behavior and discipline that applies to each school in the district.
- ▶ Serve as a charter school authorizer. (KRS 160.1590)



It's impossible for the average school board member to be familiar with all the district's legal requirements, just as it is impossible for the average member of the General Assembly to be familiar with all state laws and regulations. For that reason, local board members often must rely on the expertise of district staff or local legal counsel. Board members must recognize when additional information is needed and the best sources for that information.

Most of a local board of education's duties are fulfilled with the adoption of district policies. Once policies are adopted, the focus shifts to the district superintendent and staff to implement the policies. Neither the board as an entity nor individual board members are involved with day-to-day administration of board policies or district administration; that responsibility by law falls on the superintendent and staff. However, the board does monitor overall district performance and can revisit, amend or repeal policies that it believes are in the best interest of the district.

Board member qualifications

To serve on a local board of education a person must meet the following qualifications (KRS 160.180):

- ▶ Be at least 24 years old.
- ▶ Have been a citizen of Kentucky for at least three years preceding her/his election and be a voter of the district he or she is elected to represent.
- ▶ Have completed at least the 12th grade, or been issued a high school equivalency diploma.
- ▶ Have signed and filed an affidavit under penalty of perjury certifying completion of the 12th grade or the equivalent as determined by passage of the 12th-grade equivalency examination.
- ▶ Have filed a transcript evidencing completion of the 12th grade or results of a 12th-grade equivalency examination.
- ▶ Does not hold any elective federal, state, county or city office.
- ▶ Is not, at the time of election, directly or indirectly involved in the sale to the board of anything, including services, paid for with school funds.
- ▶ Has not been removed from a board of education for cause.
- ▶ Does not have a father, mother, brother, sister, husband, wife, son or daughter employed by the school district. This does not apply to a board member holding office on July 13, 1990 whose relative was not initially hired by the district during the board member's tenure.



Q. Can a board member's relative be employed by the school district as a substitute for a certified or classified employee?

A. Legislation passed during the 2017 Regular Session of the Kentucky General Assembly and effective as of June 29, 2017, amended KRS 160.380 to permit a board member's relative to be employed as a substitute for a certified or classified employee if the relative is not:

- ▶ A regular full-time or part-time employee of the district;
- ▶ Accruing continuing contract status or any other right to continuous employment;
- ▶ Receiving fringe benefits other than those provided other substitutes; or
- ▶ Receiving preference in employment or assignment over other substitutes.

Significant concerns exist, though, about how this most recent legislative change interplays with the board member qualifications set forth in KRS 160.180, which prohibits board members from having a parent, sibling, child or spouse who is employed by the school district.

Board member election

Except in Jefferson County and special cases resulting from school district merger, boards of education in Kentucky consist of five members. Board members are elected for a four-year term on a nonpartisan ballot in even-numbered years. Terms are staggered so that the terms of not more than three members of a local board expire at the same time, except in Jefferson County. In independent school districts, school board members are elected at large. In county school districts, members are elected from divisions.

School board candidates cannot solicit or accept any political support from district employees, including financial contributions or any visible campaign support such as distributing campaign material, literature or signs. (KRS 161.164)

Board member training

The minimum number of training hours that a board member must earn each year is defined in KRS 160.180(5) and is based on the length of their board experience and when they took office. For members serving prior to Jan. 1, 2015:

- ▶ 0–3 years – 12 hours of annual training
- ▶ 4–7 years – 8 hours of annual training
- ▶ 8–plus years – 4 hours of annual training

For members seated on or after Jan. 1, 2015:

- ▶ 0–7 years – 12 hours of annual training
- ▶ 8–plus years – 8 hours of annual training

The statute also grants authority to the Kentucky Board of Education to identify the criteria for fulfilling this requirement. A synopsis of 702 KAR 1:115, the accompanying regulation to this statute, is as follows:

- ▶ Board members with 0–3 years of experience must include as part of their mandated annual training 3 hours of school finance, 1 hour of ethics and 1 hour of superintendent evaluation.
- ▶ Board members with 4–7 years of experience must include as part of their mandated annual training 2 hours of school finance, one 1 hour of ethics and 1 hour of superintendent evaluation.
- ▶ Board members with 8–plus years of experience must include as part of their mandated annual training 1 hour of school finance and 1 hour of ethics, as well as 1 hour of superintendent evaluation every other year.

In addition to these requirements, new board members must acquire training hours from among the following topics: school law, school finance, community relations, policy development, personnel relations (for limits, see Chapter 5), instructional programs, superintendent/board relations, goal setting, decision making, employment and evaluation of the superintendent, and educational services for gifted and other special-population children.

Charter school authorizer training

All school board members will be responsible for obtaining charter authorization training beginning in 2018.

Every board member must have 12 hours of training in charter school regulation every year. The charter school regulations put this in line with existing board training requirements for maximum overlap with other training topics already required of school board members. Existing relevant training may count toward the charter school training requirement. All charter training must be approved by the commissioner of education.

Of the 11 areas of training specified in the charter school regulations, these may be worked into current training requirements:

- ▶ Financial governance and transparency
- ▶ Conflicts of interest
- ▶ Ethics
- ▶ Curriculum and instruction
- ▶ Educational service provided for special needs, at risk, English learner, gifted and other special population students
- ▶ Physical restraint and seclusion of students

The other areas of charter school authorizer training are:

- ▶ Charter application
- ▶ Charter school monitoring
- ▶ Charter school contracting
- ▶ Charter school renewal, nonrenewal and revocation
- ▶ Charter school closure

Competency-based charter school authorizer training is an option in lieu of seat time. While such training does not currently exist, it is in development and will be beneficial not only to charter schools, but to traditional district schools.

Required training is reduced once an authorizer achieves more than eight years of experience as a charter school authorizer.

Board member meeting attendance

Once the elected officer's term of office begins, board members are required to regularly attend board meetings.

A board member failing to attend three consecutive regular meetings is subject to removal from office, unless formally excused by the board. Such excused absences should be reflected in the official meeting minutes. Special meetings are not counted in determining whether a board member should be removed.

The board as a corporate body

According to KRS 160.160, "Each Board of Education shall be a Body Politic and Corporate with perpetual succession." This means that individual board members have no authority to bind the board unless they are authorized to do so by action taken in a proper meeting. Only when the board gathers as a corporate body do the members have the ability to take action on behalf of the district. They cannot direct any action in the district outside of those meetings. With the exception of the chairperson's authority to call a special meeting, individual board members have no more authority than an individual citizen to direct the affairs of the district. Only actions recorded in the minutes of a board meeting reflect the official acts of the board. This is why each board member should carefully review the minutes of each board meeting before voting on their approval, as the minutes are the only legal record of the official actions of the board.

Personal liability

Board members are generally held to be immune from personal liability for actions taken by the board, providing they act in good faith, and without illegal motive, fraud, collusion or gross negligence.

State law allows school boards to purchase insurance to protect members when they act in their official capacity. Boards should discuss coverage with the superintendent and board attorney. Insurance generally will not protect board members who commit intentional bad-faith acts, such as knowingly violating criminal law or intentionally violating a person's civil rights. Board members who commit such acts may not be immune from legal action and may be held responsible by the courts.

Board officers

To carry out its responsibilities, the board is required to appoint officers. By statute, the board elects the board chairperson, vice chairperson and board treasurer . It also appoints a board secretary and hires the board attorney and superintendent. The position of superintendent, who is the executive agent of the board, is discussed in chapter 3.

Board chairperson

The chairperson presides over meetings of the board, keeping the discussion focused on the topic under consideration, encouraging each member to contribute, giving attention to all questions and leading but not dominating the meeting. The chairperson can vote and make motions. The chairperson signs most official board documents, including orders of the treasurer and contracts, consistent with authorization by the board as a body. (The superintendent or designee signs purchase orders and personnel contracts.) The chairperson may perform other functions required by the board and allowed by law.

The chairperson and vice chairperson serve a term of no more than two years, though the board can set the term for a lesser length. And the board can elect a chairperson and vice chairperson to consecutive terms.

Vice chairperson

The vice chairperson presides in the absence of the chairperson. The vice chairperson may perform other functions required by the board and allowed by law.

Board secretary

State law requires each board of education to appoint a secretary for a term of one, two, three or four years. The secretary reports and is responsible to the board. The superintendent has no role in the appointment of the board secretary. The secretary cannot be a member of the board of education.

The secretary keeps the board's minutes. The minutes should be clear, concise, legible and, above all, accurate. The minutes should show:

- ▶ The place, date and time of the meeting.
- ▶ The names of members present.
- ▶ The transactions of the board, including the names of persons making and seconding motions, as well as the name of each person voting and their vote.

During meetings, the secretary must record all official proceedings. Minutes of meetings are to be kept in a book that is a public record open to inspection after the board approves them. The secretary also signs all orders of the board and sees that the chairperson countersigns them. The secretary is the official custodian of all securities, documents, title papers and other papers of the board, keeping them as the board directs. The superintendent can serve as secretary to the board. A board secretary other than the superintendent must make all records, and information contained in those records, available to the superintendent at any time. A superintendent can't receive additional compensation for serving as board secretary. The board can set a reasonable salary for anyone else serving as secretary.

The secretary must call a special meeting of the board when requested by the chairperson or by three members of the board. State law requires the secretary to attend board meetings except when his/her own tenure, salary or the administration of the office is under consideration.

Treasurer

State law requires each board of education to elect a treasurer. The school district finance officer often serves as treasurer. There are specific training and certification requirements for finance officers. Alternatively, the board may elect its secretary to serve as treasurer. The election of the treasurer does not require the superintendent's recommendation. It is recommended that the board appoint a treasurer with accounting experience, preferably a certified public accountant. The treasurer reports and is responsible to the board. The board can remove the treasurer from office for cause by majority vote at any time.

The treasurer pays all bills of the board, receives all money due the district and deposits it in a depository designated by the board. Kentucky law requires the treasurer to be bonded by an authorized surety company. The board pays the premium on the bond.

Duties of the treasurer include:

- ▶ Being responsible for all funds belonging to the school system.
- ▶ Keeping an accurate record of all receipts and disbursements.
- ▶ Preparing periodic reports and financial statements.

Board attorney

Appointment of a board attorney is at the discretion of the board. However, the complexity of school issues, from special education law to due process for employees, requires legal advice from some source. A board should carefully determine the terms of the agreement with the attorney. If the attorney is put on a retainer, the agreement should clearly specify services included as part of the retainer and the costs for services outside the retainer. The board should also delineate who is authorized to contact the attorney. Usually, only the superintendent and the board members have that authorization.

An attorney who is well-versed in federal and state laws, due process laws and court rulings that affect public schools can be an invaluable asset to a board. The National School Boards Association's "Becoming a Better Board Member" publication lists the areas where an attorney can assist the board:

- ▶ Reviewing board minutes to ensure that all board actions are legally sound.
- ▶ Determining whether board meeting procedures comply with law.
- ▶ Advising the board on the interpretation of statutes, charters, court mandates, contract language, and other technical matters of law.
- ▶ Writing board policy in clear, precise English.
- ▶ Reviewing the board's policy manual to ensure that all legal requirements have been addressed in policy and that policies are legally sound.
- ▶ Reviewing all contracts and advising the board in contract negotiations.
- ▶ Reviewing all hiring procedures.

- ▶ Preparing or reviewing board bid invitations, job specifications, and construction and other contracts.
- ▶ Advising the board on due process procedures and the conduct of hearings.
- ▶ Reviewing all procedures and regulations regarding the rights and responsibilities of students, and pupil discipline.
- ▶ Reviewing federal programs to determine what constitutes legal compliance.

The role of the attorney is to explain the legal implications of board decisions or actions and to present options for decisions based on legal interpretations. The attorney should also point out any legal problems that may arise from a proposed action of the board.



Q. What happens if there is a vacancy in a board seat?

A. Any vacancy on the board must be filled by the commissioner of education within 90 days after the vacancy occurs. The appointed member must meet the state eligibility requirements and hold office until a successor is elected and has been qualified. The local board may make nominations and anyone can self-nominate for the office. The commissioner can establish a panel of qualified persons to interview candidates and to make a recommendation.

If a vacancy has an unexpired term of one year or more at the next regular November election after the vacancy occurs, the unexpired term shall be filled in an election at the next regular November election after the vacancy occurs. The elected member shall succeed the member chosen by the commissioner. If the unexpired term is less than one year, the commissioner's appointee serves the remainder of the term.

All board terms run for four years and never change. Thus, if a member is elected and later resigns, the maximum time that an appointed successor can serve is only until the next election. In that sense, the term never changes from the original four years regardless of who or how many may serve during the four-year term.

Q. Do board members receive a salary or expenses for board service?

A. Board members cannot receive a salary for board service; however, board members can receive a per diem of \$75 for each board meeting attended, whether a special or regular meeting. Board members can also receive reimbursement for expenses for attending each board meeting. Per diems cannot exceed \$3,000 per calendar year and expenses for attending meetings within the district may not exceed \$3,000 per calendar year. Board members also can receive a per diem for attending the in-service training required by statute. A board member cannot receive a per diem for training above the training hours required by statute.

A board member can be reimbursed for actual and necessary expenses incurred outside the district while performing district duties as long as it is authorized by the board. For example, a board member can attend a meeting on behalf of the district at the state Department of Education in Frankfort and receive a reimbursement of expenses. Expenses incurred outside the district are not calculated in the \$3,000 calendar-year limitation for in-district expenses.

Conflicts of interest and consequences

Board members can be removed from office for either of two main conflicts of interest. The first ground for removal of a board member is for a financial conflict of interest where a board member receives, directly or indirectly, any financial benefit from the district other than permitted per diems and expenses. Therefore, any time board members are aware that they will receive a financial benefit from the district where they serve, they should evaluate whether a conflict could occur. Financial conflicts can occur on the day of the election or thereafter. For example, if an employee of the district ran for the board but waited to resign until after the election to see the outcome, it would be a conflict, as the member would have a financial interest in the district on the day of the election. Other examples of possible financial conflicts:

- ▶ A school board member who is an owner or partner of a firm selling supplies or insurance to the school board. It's immaterial whether the amount of business involved is small and that full value was given.
- ▶ A board member who purchased a building and rented it to the board for use as a superintendent's office.
- ▶ A board member who was president of a corporation that sold merchandise to the school board.
- ▶ A board member who was sales representative of a company that sold paint to the district and received a commission on the sales.

Disqualification of a member because of interest in the sale of supplies or services to the school district is confined to monetary benefit that goes directly or indirectly to the member. If a spouse or dependent child of a board member receives funds from the school district, this also may be considered a conflict for the board member, as the board member "indirectly" received the benefit. The indirect benefit is not always obvious. For example, if a member has a minor child who still lives at home with the member and the district proposes to pay the child for a small service during the summer, it may be deemed a financial conflict for the member as the assumption is the member indirectly benefited from the minor child's receipt of additional living expenses from the district.

The second main conflict of interest is called an incompatible office. The Kentucky Constitution provides that no person shall, at the same time, be a state officer and an officer or employee of any county, city, town or other municipality. Because a school board member legally is a state officer, the member cannot be a county or municipal officer or employee. A board member is disqualified when the member accepts such appointment. Examples of offices that have been found to be incompatible with school board membership include, but are not limited to, the following:

- ▶ Member of a county board of health
- ▶ Board member or superintendent of a city or county children's home
- ▶ City council member
- ▶ County election commissioner
- ▶ Member of a county board of supervisors
- ▶ County tax commissioner
- ▶ Magistrate
- ▶ Deputy sheriff
- ▶ Library board member

In addition, the courts have held that a teacher under contract is not eligible to serve on the school board in the same district that employs him or her. However, a teacher is eligible to serve as a school board member in a district where he is not under contract, if other qualifications are met. A retired teacher is eligible to become a member of the board of education, if other qualifications are met.

Kentucky law does not prevent someone from being a state officer and a state employee at the same time. Therefore, school board membership has been held compatible with state employment, such as inspector in the state Department of Motor Vehicles, state parole officer and maintenance supervisor of state-maintained roads.

A board member can become a candidate for an otherwise incompatible office and continue to serve on the board of education. However, if the board member wins the election she or he will be required to resign from the board of education before assuming the second office.

There are other reasons why a board member might be removed from office, such as no longer meeting the essential qualifications or no longer living in the required division or district, or having a relative within the defined category hired by the district. But the financial conflict and incompatible office conflict are the two main conflicts most often encountered.



Q. What is the process for removing a board member?

A. There are three ways for a member to be removed. The attorney general may file an action in circuit court to remove the board member from office. Under a separate administrative process (KRS 156.132), the commissioner of education can recommend the removal of a local board member to the state Board of Education when the commissioner has reason to believe the board member is guilty of immorality, misconduct in office, incompetence, willful neglect of duty or nonfeasance. The state board, by a majority vote of its members, can bring charges without the recommendation of the commissioner. The board member against whom the commissioner issues written charges must be provided with the charges and notified of the date and place to appear before the state board to answer the charges. The board member can be represented by counsel and subpoena witnesses. The decision of the state board can be appealed to the circuit court and the state court of appeals.

Some controlling statutes and regulations for this chapter: KRS 118.315; 156.132; Chapter 158; 160.160; 160.180; 160.190; 160.210; 160.270; 160.280; 160.290; 160.345; 160.350; 160.380; 160.440; 160.460-500; 161.164; 702 KAR 1:115



Chapter 3

The Superintendent and Board Team

The superintendent

Good school board members know the difference between governance (which is their job) and management (the administration's job), and place a high priority on respecting that difference. Board members should recognize that their responsibility is not to run the system, but to see that it is well-run. That is why one of the board's most important duties is to hire a qualified and capable superintendent to administer its schools on a day-to-day basis. Vesting operational and administrative authority in the superintendent and staff enables the board to be more efficient in carrying out its oversight functions. Because the superintendent holds the key administrative position in the school system, the board should seek the best-qualified person. But to be successful, the board and superintendent must work together as a team. Neither can move the district forward in isolation, but together, as a board team, they can.

Two main roles

The superintendent has two major roles: chief executive officer of the school system and educational advisor to the board. As chief executive officer, the superintendent has a duty to carry out all policies, rules and regulations established by the board. The superintendent has day-to-day charge of the entire school system and coordinates the work of all system personnel. As the board's educational advisor, the superintendent should recommend policies for the board to consider and should advise and counsel the board on all education matters. However, this does not mean that the board cannot or should not seek information, guidance and counsel from other sources.

The superintendent's functions

A list of the superintendent's duties would be endless. Kentucky law has specified some of the major duties of that office:

- ▶ Meet with the board except when his or her own tenure, salary or the administration of the superintendent's office is under consideration.
- ▶ See that the laws relating to the schools; the bylaws, rules and regulations of the Kentucky State Board of Education; and the regulations and policies of the district board of education are carried out.
- ▶ Prepare, under the board's direction, all rules, regulations, bylaws and statements of policy for approval and adoption by the board.
- ▶ Be responsible, subject to the control and oversight of the board, for the general supervision of the schools, including instruction, management of teachers, pupil discipline and business affairs. At the same time, the superintendent examines the condition and progress of the district and keeps the board informed of those facts.
- ▶ Make all appointments, promotions, and transfers of principals, supervisors, teachers and other school employees. If a school has school-based decision making, special rules and processes will apply to the selection and hiring of principals and other staff.
- ▶ Prepare, or direct the preparation of, all budgets, salary schedules and reports required of the board by the state board of education.
- ▶ Keep advised of the needs of the school system.
- ▶ Receive and examine reports from teachers, school councils and other school officers.
- ▶ Make reports as directed by the board.

In addition to these legal requirements, most authorities agree that the superintendent should continuously evaluate the schools and make recommendations for improvement; analyze the distribution of critical work functions among job positions and make the findings available to the board; and serve as the district's representative to the public, keeping the community informed about the schools. In short, the superintendent should provide professional leadership for the school system.

Superintendent qualifications

Each local board of education will assess local needs and determine what qualities it will seek in superintendent candidates. Because each district's needs differ to some degree, there will be differences in local qualifications. All superintendents must hold a valid certificate for superintendents issued by the state Education Professional Standards Board, and are subject to nepotism prohibitions similar to the rules for board members. A superintendent must live in Kentucky.

Selecting a superintendent

State law requires a local board to establish a screening committee to review applicants and make recommendations to the board of education. The board is required to consider the recommendations of the committee but is not required to appoint a superintendent from among those recommendations. The committee has the opportunity to screen all applicants. When a board establishes a screening committee, it also must provide the committee with information necessary to do its work. For example, the committee must know what qualifications the board is looking for in a superintendent, the time frame for the search and the amount of funding available to the committee to perform its task. The role of the committee is in part defined by the charge given to it by the board.

A screening committee must be established within 30 days of the date the board determines that a superintendent vacancy has occurred or will occur, unless the vacancy will not occur for another six months or more from the determination. For example, a superintendent gives notice a year in advance of retirement. In that case, a screening committee is to be established at least 90 days before the first date on which the position may be filled. By statute, screening committees are composed of two teachers, elected by the teachers; one board member, appointed by the board chairperson; one principal, elected by the principals of the district; one parent, elected by the presidents of the parent-teacher organizations of the district; and one classified employee elected by the classified employees in the district. A minority member must be elected or appointed to the screening committee in districts with a minority population of 8 percent or more as determined by the enrollment on the preceding October 1. If no minority member is elected or appointed, the committee membership must be increased to include one minority parent. The minority parent member is elected by parents in an election conducted by the school board. The attorney general's office has stated that the screening committee cannot deviate from this composition.

The establishment of a screening committee does not prevent the board from seeking input from other committees or community groups, such as business leaders, or prohibit a board from employing consultants if it believes that will benefit the search process. KSBA provides consulting assistance to boards that are beginning a search for a superintendent.

Term of office

Kentucky law requires the term of office for a superintendent to begin on July 1 following the appointment. The appointment may be for a term of no more than four years. After the completion of a superintendent's first contract or after four years, whichever comes last, the board of education can, no later than June 30, extend the contract of the superintendent for one additional year beyond the current term of employment.

Superintendent evaluation

After selection of the superintendent, one of the most important functions of a school board team is to fairly and effectively evaluate the superintendent each year. School boards are required by law (KRS 156.557 (6)) to perform and document a summative (final) evaluation of the district superintendent. Each superintendent shall be evaluated according to policy and procedures developed by the local board of education and approved by the Kentucky Department of Education.

The summative evaluation of the superintendent must be in writing, discussed and adopted in an open meeting of the board, reflected in the board meeting minutes, and made available to the public upon request. Any preliminary discussions relating to the evaluation of the superintendent by the board or between the board and superintendent prior to the summative evaluation shall be conducted in closed session.

A high-quality superintendent evaluation process not only supports improvement for the superintendent, but also benefits the district's governance team, students, district and community. The superintendent's performance impacts every aspect of the school district.

Vacancy prior to contract expiration

If a superintendent leaves before the term set by the board expires, the term expires on the date the vacancy occurs. The board may then appoint a new superintendent for a new term that begins on the date of the appointment. This is an exception to the requirement that all terms begin on July 1. However, all terms set by a board following a vacancy must end on June 30. (KRS 160.350 (1)) For example, if a superintendent resigns and the board can't appoint a new superintendent until January 1, the board would be able to grant a maximum three-and-a-half year term due to the June 30 requirement. A superintendent cannot resign the term and accept a new term from the same board of education prior to the expiration date of the present term. When a vacancy occurs between a school board election and when the newly elected members take office, the position cannot be filled until the new members take office, but the board can appoint an acting (or interim) superintendent to serve no more than six months. This appointment can be renewed once for up to three months. A screening committee does not have to be established for the appointment of an acting (or interim) superintendent.

The board team partnership

In the words of Henry Ford, "Coming together is a beginning. Keeping together is progress. Working together is success." Sometimes that is easier said than done. Each board member and the superintendent arrive at their positions as individuals with their own ideas, values, thoughts and preferences, but must conduct the business of the district as a corporate body. Learning to compromise for the greater good of the district can be difficult for even the most seasoned veterans, but it is a skill that team members must strive to master if they want to be successful in their role.

Healthy debate and questioning is an important part of the decision-making process, but once the vote is taken, the majority should be respected: The board must speak with one voice. This unity of message is critical to the success of a board team because it communicates to the community that the district leadership is strong, capable and in control, which will help to create a climate of confidence and support. On the other hand, public disharmony and infighting of the leadership undermines the work of the board and can lead to confusion, distrust and hostility within the community, who will likely see the fractured board as incompetent to run the district effectively.

School governance is rooted in the belief that a group of different individuals dedicated to the same goal can make better decisions than one person could alone. With this in mind, it's best to be open-minded about the opinions of others on the team. The goal should not be to convert them to your point of view but rather to determine the best solution to an issue by working together with everyone's input. The students should be the "winners" – not one board member or another.

Making it work

There is nothing magical about an effective board-superintendent team relationship; it is not going to happen automatically once a team is assembled. As with any other interpersonal relationship, it has to be cultivated and nurtured. To work well, it must be built on trust, open and honest communication, commitment, hard work and the desire to see it through.

Board member do's and don'ts for achieving a good working relationship with the superintendent.

DO

- ▶ Know and respect their role and responsibilities.
- ▶ Communicate with the staff through the superintendent as much as possible.
- ▶ Devote the time needed to do a good job.
- ▶ Do their "homework" prior to each meeting and be prepared to discuss the issues and take action.
- ▶ Admit what they don't know.
- ▶ Use facts, not emotion, when discussing issues.
- ▶ Communicate disagreements individually in private.
- ▶ Genuinely listen to others.
- ▶ Respect others and earn respect from them.
- ▶ Be prepared to compromise.

DON'T

- ▶ Jump to conclusions.
- ▶ Become a complaint department.
- ▶ Make promises outside the board meetings.
- ▶ Interfere with the administration's roles and responsibilities.
- ▶ Pretend to be an instant expert on school matters.
- ▶ Grandstand and make speeches.
- ▶ Surprise the superintendent or fellow board members at a board meeting with resolutions, problems and issues without their prior knowledge.
- ▶ Take all the credit when things are going well.



Superintendents should also work to develop and maintain a good working relationship with boards. In addition to the points listed for school board members, superintendents should:

- ▶ Be forthright, even if that means saying they're not certain what will happen.
- ▶ Never withhold pertinent information, even with complex initiatives.
- ▶ Have a system of introducing complex, high-profile initiatives early to the board.
- ▶ Be open to board ideas and questions.

These are not exhaustive lists of behaviors that contribute to effective board team relationships but they are a great place to start. If a board team starts to feel that it is not functioning well, it may be appropriate to suggest a workshop where the board reviews its ground rules that establish how it will function. If board bylaws or policies are not effective, then consider adding to or clarifying them. A board could also hire an outside facilitator to assist in improving the board's working relations. KSBA can facilitate workshops or retreats tailored to the board's specific situation.

Qualities of effective school board members

- ▶ They have a clear understanding of the roles of the superintendent, board chairperson, board members and school councils.
- ▶ They become familiar with the function of the integral components of their school system.
- ▶ They develop and practice skills for conducting, managing and participating in productive meetings.
- ▶ They practice consistency and impartiality in all dealings with personnel, constituents and issues.
- ▶ They stay informed about the public's concerns about the schools, listen to their opinions and help them secure needed information.
- ▶ They maintain a high (but appropriate) level of visibility in the schools, community and the district; they visit schools to gain clearer insights, but do not interfere with the operation of the school.
- ▶ They seek opportunities to grow through specially planned workshops, seminars and conferences.
- ▶ They let employees know that they are appreciated and valued.
- ▶ They periodically evaluate themselves and the board as a whole.
- ▶ They perform objective evaluations of the superintendent in accordance with policy and established goals and objectives.
- ▶ They are trustworthy and able to communicate clearly, solve problems and serve professionally.
- ▶ They keep students first and practice sound governance that permeates their thinking, planning and voting.
- ▶ They continually ask, "Is this what's best for students and learning?"

Operational guidelines for effective board members

- ▶ Do not publicly surprise the superintendent with comments, ideas and suggestions.
- ▶ Recognize their function is that of a policy-making board member and not administrative in nature, similar to a legislative branch of a government.
- ▶ Adopt policies only after all sides of the matter have been studied and all persons or groups affected have been consulted. Attempt to reach decisions that all members can support.
- ▶ Familiarize themselves in a broad and nontechnical manner with the challenges and opportunities of the system.
- ▶ Refer complaints and requests to the appropriate administrator or board counsel, working through appropriate channels.
- ▶ Recognize that the appropriate administrator is entirely responsible for carrying out a particular board policy in accordance with local, state and federal laws and regulations.
- ▶ Interpret to the superintendent the attitudes, wishes and needs of the people of the district; and articulate to the people the needs, problems and progress of the schools.
- ▶ Voice opinions frankly and courteously in board meetings and vote for what is best for the students in the district.
- ▶ Require oral and written reports to keep the board well informed.
- ▶ Give all school officials authority in keeping with their responsibilities.
- ▶ Maintain harmonious relations with other board members and the superintendent.
- ▶ Know that it is possible to disagree without being disagreeable.
- ▶ Are exceedingly cautious with comments made to them about district personnel.
- ▶ Give friendly counsel, advice and support to the superintendent.
- ▶ Allow board chairperson to be the official spokesperson on board matters.

The primary consideration in any board decision should be the tangible impact it will have on students in the district. If board teams understand the facts and relevant data, and keep the needs of all students in mind when making decisions, they will undoubtedly make good decisions, despite pressures from other constituent groups or individuals.

Some controlling statutes and regulations for this chapter: KRS 156.557 (6); 160.350; 160.390; 160.352; 160.370



Chapter 4

The Board Meeting

The school board meeting

By law, a local board of education must meet at least once a month throughout the year in a regular board meeting at a place and time set by the board. Individual board members have no authority to bind the board unless such action is granted by the board and recorded in the board's minutes.

Board meetings cover the business of the district, such as authorizing bill payments, adopting policies and making decisions on construction projects, but they also include discussions on topics such as student achievement, future district goals, presentations by students and comments from parents or community groups. All board meetings are subject to the state Open Meetings Act, which sets procedures for when and how meetings are called and held. KSBA publishes a reference booklet detailing Open Meetings Act provisions. Board members need to have a working understanding of the Act, because failure to observe its requirements can result in board actions being set aside by a court and fines levied against individual board members.

Types of board meetings

Regular meetings

Under the Open Meetings Act, all boards must adopt a calendar of regular board meetings that reflects the date, time and place of each meeting. All meetings on the calendar are the regular meetings of the board. Regular board meetings feature an agenda for action and discussion, which may be amended at the meeting (as opposed to special meetings, where the agenda cannot be altered). The regular meeting schedule must be made available to the public. Additional notice requirements apply to regular meetings in which the school calendar will be considered and will be adopted (see "Adopting the school calendar" next page).

Special meetings

All meetings not listed on the adopted calendar are special meetings. Special meetings are subject to additional requirements and restrictions under the Open Meetings Act. For example, when a special meeting is called, an agenda must be delivered along with the notice of the meeting; the meeting is limited to the agenda sent with the notice. Once published, the agenda cannot be amended in any way during the special meeting and only items listed in the agenda can be discussed at the meeting. This would include opening the floor for comments from the public unless it is specifically addressed in the agenda, regardless of the board's practice for public comments at regular meetings. The agenda for a special meeting may only be amended when a new notice and reposting of the agenda, as amended, is completed prior to the 24-hour period before the meeting as required by statute.

Special board meetings can be called by the chairperson or by the board secretary if requested by a majority of the board members. State law requires each member to receive written notice of a special meeting and the notice must include an agenda and the date, time and place of the special meeting. The written notice must be delivered as soon as possible in person, by fax or mail to every member of the board as well as to all media organizations that have filed a written request for such notifications. If the board member or media organization has filed a written request to receive notice by email, then special meeting notice must be delivered to the address supplied in the written request. All notices of a special meeting, however delivered, must be received by the board member or requesting media at least 24 hours prior to the meeting. The written notice of the special meeting must be posted in conspicuous places in the building where the meeting will take place and in the central administration building.

Emergency meetings

An emergency special board meeting can be called by the chairperson or by the board secretary if requested by a majority of board members. A reasonable effort must be made to notify the members of the board, media organizations and the general public of the emergency meeting. At the beginning of an emergency meeting, the chairperson must describe briefly for the minutes of the meeting those circumstances that prevented compliance with notification requirement for a special meeting. Discussion and action at the emergency meeting is limited to the emergency for which the meeting is called. An emergency meeting normally is called only when there is a threat to individuals' health or safety or there is a threat to the district, such as property loss or damage. In this context, emergency means emergency.

Adopting the school calendar

The board must appoint a calendar committee, as defined in statute, to review, develop and recommend school calendar options. Prior to adopting the school calendar, the board must consider recommendations from the calendar committee as well as from the superintendent. The board must adopt the school calendar at a subsequent meeting.

Both the meeting to consider recommendations of the calendar committee and superintendent and the later meeting to adopt the final calendar are subject to additional requirements when conducted as part of a regular meeting. Specifically, media outlets with requests on file to be notified of special meetings should be provided 24 hours' notice that the calendar will be considered or adopted at the regular meeting. This is a unique additional notice requirement that applies only to regular meetings taking up recommendations of the calendar committee/superintendent and final approval of the calendar.



Q. Can a local board reschedule its regular board meeting?

A. When a board of education reschedules a regular meeting, the rescheduled meeting is to be treated as a special meeting and the requirements of a special meeting must be followed.

Q. Can an item be added to the agenda at a regular meeting?

A. Yes. However, if there is opposition from a board member the board should vote on whether to add the item. Three affirmative votes are necessary to add the item.

Q. If an honest error is made and an important item is omitted from the agenda for a special meeting, can the board vote to amend the agenda to correct the error?

A. No. In a special meeting, the board can act only on the items listed in the agenda and notice for the meeting.

Board meeting parameters

What constitutes a meeting

Whenever a quorum of the board (for a five-member board, that means three) gathers to discuss board business, it is legally considered a meeting and is subject to the Open Meetings Act. For example, if three members meet for coffee to discuss district business and do not provide public

notice or make the gathering open to the public, then the discussion is in violation of the Open Meetings Act. There is no violation if only two board members meet; however, if two meet and then one of the two meets a third member in an effort to avoid a quorum and the Open Meetings Act requirements, they may be violating the Act because this process is deemed a “serial meeting.” Serial meetings are prohibited by the Open Meetings Act.

Closed sessions

All meetings of a board must begin and end as public meetings. However, the Open Meetings Act allows a board to go into closed/executive session for a few specific topics as listed in the Act. For example, a board can go into closed session for a student discipline hearing. The Act requires the board to follow specific procedures when going into or coming out of closed sessions and the board needs to make sure that those procedures are followed. General personnel matters such as budgets and salary increases or decreases are not suitable topics for a closed session.



Q. Are closed/executive session discussions limited to the topics announced when going into the closed session?

A. Yes, only those topics announced as the reason for the closed session can be discussed.

Q. Do work sessions of the board and superintendent (where no action is to be taken) fall under the Open Meetings Act provisions, including public notification?

A. Yes, because district issues will be discussed, even though no final decisions, votes or other action will be taken during the work session.

The board meeting site

Most school boards conduct the majority of their meetings at the district’s central administrative offices. Some boards make it a practice to schedule some of their meetings over the course of the year at the district’s schools, in libraries, media centers or cafeterias.

Over the years, many attorney general opinions have been rendered on the issue of board meetings and public participation. In general, the board meeting site should provide adequate space, seating and acoustics to allow the public to effectively observe the meeting. Under the Open Meetings Act, if a board meeting attracts an audience larger than it can accommodate in the planned meeting space, the board should make a good-faith effort to handle the overflow crowd. That may mean moving the meeting to a larger meeting space. A board was found in violation of the Open Meetings Act in part because people attending the board meeting could not hear the discussions. In other words, the board and superintendent should ensure, insofar as feasible, that all attendees at board meetings can enter the meeting room and hear and observe the board’s discussions.

Receiving the public’s comments

While no Kentucky statute requires a school board to allow public comments at its meetings, refusing to do so invites criticism that the board did not hear from constituents before making decisions. At the same time, to have an orderly meeting and show respect for all visitors – regardless of their reason for attending – means the board should establish guidelines for hearing comments from the public.

Boards can adopt procedures that apply to public comments at board meetings, such as how people request to speak, when they can speak, length of presentations, and topics to be heard at specified times. Many boards provide for a public comment opportunity at all regular meetings that allows the board to hear the concerns of the community. It is best practice to have the adopted rules for public comment (how, when, length, etc.) produced in a simple one-page document made available to visitors at each meeting.

Parliamentary procedure

All board members should know basic parliamentary procedure. It is the responsibility of the chairperson to rule on whether appropriate procedure is followed. The board may be strict or flexible in following parliamentary procedure, but it is important to establish the rules of order to be followed. Many boards follow Robert's Rules of Order, particularly the "Procedures in Small Boards" section. It is recommended that each board establish its rules of procedure and have these reviewed by its attorney.

Few board members adhere to a literal and legalistic interpretation of the rules of order. If board members have a good working relationship, reliance on rules can be minimized. But it is essential to know what the rules are, because even on the most harmonious board, questions of proper procedure sometimes arise.

Voting

A majority of the board constitutes a quorum for the transaction of business, but a concurring vote by a majority of the board is still needed to take action (unless otherwise specified by statute), no matter how many members are in the quorum. On a five-member board, for example, at least three concurring votes are required to take official action, even if only four members are present.



Q. All five board members are present. Two members vote for a motion, two members vote against a motion, and one member abstains. Does the motion pass?

A. No. Since a majority present did not initially vote in favor, the motion does not pass.

Q. All five board members are present. Two members vote for a motion, two members vote against a motion, and one member disqualifies himself. Does the motion pass?

A. No. At least three concurring votes are required for an action to pass.

Q. Only three board members are present. Two members vote for a motion and one member votes against the motion. Does the motion pass?

A. No. Three concurring votes are required.

Q. Only three board members are present. Two members vote for a motion and one member abstains. Does the motion pass?

A. Yes. As currently interpreted, the abstention goes with the majority of those in attendance, giving three concurring votes. You may want to consult with local counsel on this question.

Some controlling statutes and regulations for this chapter: KRS 160.270; 61.805, 61.850



Chapter 5

Special Issues:

Personnel, student discipline
and special education

Board members and personnel

The 1990 Kentucky Education Reform Act (KERA) made the superintendent responsible for most personnel actions, including hiring, dismissals, suspensions, reinstatements, assignments, transfers and promotions. The authority applies to all classified and certified positions. Board members are restricted by statute (KRS 160.170 and KRS 160.180) from attempting to influence the hiring or appointment of district employees, except the hiring of the superintendent and the school board attorney, the appointment of the board secretary and election of the board treasurer. Except for those positions, if a board member attempts to influence an employment decision, the member may be subject to removal from office under state law.

This prohibition does not apply to independent contractors such as architects, construction managers, consultants, contractors or school suppliers who may sign a contract with the board. However, the board must be sure that these persons or groups are established as independent contractors.

While board members are prohibited from attempting to influence “who” is employed by the district, that doesn’t mean the board is entirely removed from the personnel process. The board sets the district budget, which determines annual salary schedules, extra-duty salary formulas, the number of extended employment days available for the district, and the number of classified and certified positions that will be funded by the district. In addition, the board adopts all personnel policies for the district, including leave policies, work hours and benefits, and approves job descriptions. So the board plays a pivotal and important role in the area of personnel, but board members need to recognize and observe legal boundaries.

School districts are governmental entities and not private business. District personnel hold both constitutional and statutory rights that employees of a private business may not hold. This means school district personnel action may encounter additional procedures and standards that a private employer may not face. In addition, because of the role of the superintendent, principals and school councils, the board does not directly make many specific personnel decisions. If, for example, a principal is failing to perform and a school is declining in performance, a board cannot direct the superintendent to remove the principal, because that is the superintendent’s authority; but the board can hold the superintendent accountable for the failure of the school to progress. A certified employee who is tenured will hold certain rights by statute, including a right of due process. The right of due process may require a hearing before action is taken. The same is true for classified employees where statutes and court cases have provided classified employees with certain procedural rights. Thus, the board of education makes certain broad decisions but the specific decisions and procedures rest with the superintendent and school councils.



Q. Can the board require a principal to explain the employment process she or he uses?

A. The board should direct the superintendent to report. The board should not, under normal circumstances, direct personnel other than the superintendent. The superintendent can make the report or might have the principal report. A board can ask about the hiring process used by the district. Any questions should focus on the process and not particular individuals who may be candidates for employment.



Q. Can a board member write a letter of reference for someone who is seeking a job in another district?

Yes, as long as the job seeker is not seeking a position in the board member's district.

Q. Is the superintendent's recommendation required for the board to abolish positions?

No. Ideally, however, it should be done with cooperation and input from the superintendent. The board's abolishment of a position does not override individual contractual rights. It is recommended that the board develop and maintain a good working relationship with the superintendent before taking unilateral action.

Q. Can the board abolish positions held by certified employees?

Yes. However, if those employees are tenured, the superintendent would most likely have to place them in other positions. If the positions are administrative, the superintendent might have to initiate demotion proceedings if the employee is not placed in another administrative position. The abolishment of positions should be part of an overall plan. If the board's action is legally authorized, the superintendent must carry out the board's intent.

Q. Are there positions that can't be abolished?

By law, these cannot be abolished: the superintendent, principal or head teacher of a school, school media librarian, finance officer and director of pupil personnel. The director of pupil personnel does not have to be a full-time position. The finance officer may hold another title, such as assistant superintendent or superintendent.

Q. If the board wants to fire a teacher or coach, for example, can it abolish the position and then later re-establish it so the superintendent can employ someone else?

The board would likely end up in litigation and likely lose. This action would appear to be for the purpose of dismissing an administrator, which is not within the board's authority. A position should be abolished only for budget purposes or for restructuring. If the position is abolished simply to remove ineffective personnel, the abolishment is subject to challenge.

Q. Can the board reduce the extended employment of teachers and administrators?

While the superintendent's personnel responsibilities include hiring and assignments, the board – as part of its responsibilities for controlling and managing school funds – may determine the amount of extended employment and compensation for personnel employed beyond the normal contractual period. Certified staff must be notified of any reduction in service and reduction in compensation as provided in KRS 161.760. The board's action must allow enough time for statutory deadlines to be met. Extra-duty and extended employment usually are set by the board through a schedule or formula for all positions.

Q. Can the school council increase or reduce the number of extended-employment days of an employee?

No. That is something only the board can do, according to the attorney general (OAG 92-29). The board may, if it chooses, allot extended employment days to the council and ask the council for a recommendation on the number of days employees should receive, but it is not required to do so. For the allocation to be legal, the board must act on the council recommendation.

Board members and student discipline

The local board of education plays a central role in student discipline. First, the board is required by state law to adopt a district code of acceptable behavior and discipline. The code adopted by the board is the governing document for all district discipline questions and it must be carried out by the superintendent, principals and school staff. The code defines required behavior, behavior infractions and provides a range of discipline options to be used when a student violates the code. The student discipline code shall prohibit bullying and establish standards of acceptable student behavior and discipline, and may include district-wide standards of behavior for students who participate in extracurricular and co-curricular activities. State law requires that codes be updated regularly, and at least every two years. The discipline code is to be posted at each school and copies provided to guidance counselors for discussion with students. All school employees and parents receive a copy.

Second, the board of education is responsible for providing the opportunity for a due process hearing for all students subject to expulsion charges. Prior to each expulsion, the student and his or her parents have the opportunity to appear before the board and hear the evidence presented supporting the expulsion. The student has a right to be represented by counsel, and to present evidence on his or her behalf before the board reaches a decision on the expulsion. The board may need the assistance of local counsel at expulsion hearings. While the district code of behavior is the governing document, state and federal laws also might play a role in the decision of the board.

Suspension and expulsion

Suspension and expulsion are terms used to define the removal of a student from the school setting. A suspension is the shorter of the two, and normally does not exceed 10 days. Expulsion is longer and is used when a student exhibits serious misbehavior or when other disciplinary measures have failed to control the misbehavior. The superintendent, principals, assistant principals and head teachers have the authority by law to suspend a student (KRS 158.150), but must report the action immediately to the superintendent and to the parent, guardian or person having legal custody.

Increasingly, students may be assigned to alternative school placements as a result of disciplinary infractions. That process is covered by board policy, discipline codes and state regulation that call for amendment of individual learning plans by a committee process for secondary students who are placed in alternative programs for disciplinary reasons.

By law, only the board of education can expel a student. Expulsion may not occur until the parent, guardian, or person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board is final, though parents may appeal the expulsion to circuit court. Expulsion hearings are held before the board of education, with the student and the student's parents being afforded due process rights at that hearing.

State law requires the local board to adopt a policy requiring the expulsion from school for a period of not less than one year if it determines that a student has brought a weapon to a school under its jurisdiction (KRS 158.150). However, the board may make exceptions to the expulsion on a case-by-case basis. The board is also required to adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who it determines possessed prescription drugs or controlled substances for the purpose of sale or distribution in a district school; or physically assaulted, battered or abused educational personnel or other students at a school or school function under the board's jurisdiction.

School administrators, teachers or other school personnel can immediately remove or have someone else remove threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action. (See generally: KRS 158.150)

Services for expelled students

Education services must be provided to an expelled student unless the board determines there is “clear and convincing evidence” the student posed a threat to the safety of other students and staff; and the student cannot be placed into a state-funded agency program.

The expulsion statute, KRS 158.150, contains a definition of the types of behavior that may be considered a threat.

The board should consult an attorney and gather as much information as possible when determining that a student is to be expelled without educational services. If a student is identified under the federal Individuals with Disabilities Education Act (IDEA) or federal Section 504 regulations, different rules will apply that may affect both the disciplinary process and potential options. In those cases, the board must consult with legal counsel on special education laws before taking any action.



Q. The school council is required to adopt a policy on the responsibilities of students and school personnel, and for selecting and implementing discipline and classroom management techniques. Isn't that the same as the board's discipline code?

A. The district code is the governing document. The council may adopt discipline provisions specific to the school, as long as the provisions carry out the intent of the district code and don't conflict with the district code.

Q. Can the council suspend or expel a student?

A. No. Only the board can expel a student, and only the superintendent, principal or head teacher can suspend a student. However, school personnel can remove threatening or violent students from the classroom setting, pending administrative action.

Q. Can the board of education regulate the conduct of students going to and from school?

A. The district code of conduct can address student conduct on the way to and from school – for example, at the bus stop or while on a school bus.

Q. Can the local board adopt a policy limiting the number of days a student can be suspended? Can the board require a specific number of days of suspension for misbehavior?

A. Yes. However, the student must be given due process.

Q. Can the local board conduct an expulsion hearing without the superintendent's recommendation that a hearing be conducted?

A. Yes. The superintendent's recommendation is not required by statute. In some cases, the expulsion recommendation is made by the principal. Consult your board's discipline code regarding the extent of your superintendent's role in recommending or preparing charges in support of an expulsion in your district.

Special education

One of the most litigious areas of public education is special education. Federal laws, regulations and local procedures greatly impact programming for students with disabilities.

The Individuals with Disabilities Education Act (IDEA) is the federal law that most directly applies to special education programs in local school districts.

Two other laws also may have serious implications for districts. Section 504 of the federal Rehabilitation Act and the federal Americans with Disabilities Act (ADA) cover an additional range of students and issues. All students with disabilities eligible under IDEA are likewise covered under these laws. However, these two laws also cover students who do not qualify for special education, yet have a physical or mental impairment – perhaps only a temporary one – that substantially limits one or more major life activities as defined by regulation.

In essence, these are anti-discrimination, civil rights laws that require boards of education to ensure that none of their programs is operated in a way that would exclude or discriminate against a student eligible for protection.

Discipline implications for boards

District discipline procedures must be consistent with limitations contained in the IDEA and Section 504. Districts also must designate someone to coordinate Section 504 and ADA. In many districts, these are two separate positions.

Federal and state laws require that districts provide a free, appropriate public education (also known as FAPE) in the least restrictive environment. First consideration is always given to whether the student can be served in regular classes with assistance. Typically, 504-eligible students receive accommodations to meet their needs in the regular classroom. Increasingly, students who qualify for special education are included in the general curriculum.

Admissions and Release Committees (ARC) and 504 Teams are federally mandated teams that decide on accommodations and services that must be provided for students with disabilities, through Individual Education Plans (IEP) and 504 Plans. Local boards and school councils cannot do anything to negate these individual plans.

It is critical to understand that additional due process protections and procedures apply to IDEA- and 504-eligible students. Suspension or expulsion beyond 10 cumulative days per year may constitute a change of the Individual Education Plan or 504 Plan approved for a student. This requires the ARC or 504 Team, not the board of education, to determine the relationship between behavior and disability. Board members should recognize that students with special needs are entitled to unique due process procedures that must be followed before subjecting them to disciplinary action.

Some controlling statutes and regulations for this chapter:

Board members and personnel: KRS 156.101; 157.390; 157.420; 159.080; 160.170; 160.180; 160.290; 160.345; 160.350; 160.380; 161.011; 161.760; 161.770; 161.790; 161.800; 704 KAR 3:345

Discipline, special education: KRS 158.150; 158.444 (data collection); 160.290; 157.195-290; 20 U.S.C. §§ 1400 et seq. (IDEA); 29 U.S.C §§ 794 et seq. (Section 504); 42 U.S.C §§ 121101 et seq. (ADA).

Note: *For a thorough and practical explanation of student discipline law, please contact KSBA to obtain a copy of Kentucky Student Discipline – Desk Reference by KSBA staff.*



Chapter 6

Polycymaking

What is a policy?

Polymaking is one of the local board of education's three major areas of responsibility, the others being hiring a superintendent and adopting the district budget.

A policy is a statement of the board's intent to guide present and future actions and decisions; it is a broad directive establishing a course of action. Policies are designed to serve as guidelines for students, staff, school councils, community members and the board itself. They usually specify what is required, who is responsible and to what degree. The purpose of a policy is to provide a framework for the school district's programs, actions of board employees and board operations. A policy establishes limits on actions of those carrying out the board's directions. It serves as a guide for discretionary action.

A policy should:

- ▶ Balance focus with broad applicability.
- ▶ Recognize limitations, such as legal constraints and available resources.
- ▶ Direct action by answering the questions of what is to be done, why and how much.
- ▶ Assign responsibility – who is responsible and to whom, in what manner and when?
- ▶ Provide information for stakeholders, including staff, students and community.
- ▶ Address accountability. This includes monitoring, reporting and evaluating student achievement and reviewing and revising reports when necessary.
- ▶ Reflect the community's vision for its schools.

Much of what an effective board team does falls under the broad umbrella of policy implementation. Because of that, it is crucial that board policies be translated into a written framework to promote understanding, stability, consistency and fairness.

It is important to maintain a well-organized, indexed policy manual. The district is required by law to maintain one official copy of the board policy manual. KSBA also offers an online manual service for local board policies.

Note that records retention requirements of the Kentucky Department for Libraries and Archives apply to all school districts and policy documents are among the records falling under those requirements. For archival purposes, the superintendent shall place on permanent file one copy of each board policy that is rescinded or amended in any manner.

Benefits of up-to-date, practical written policies

- ▶ Help the district build a framework supporting improved student achievement.
- ▶ Clarify school operations and board functions for school staff, parents and citizens.
- ▶ Support the superintendent and staff by providing a clear guide for their actions.
- ▶ Provide information, interpretation and orientation for school staff, citizens and new board members.
- ▶ Improve public relations and reduce pressures on the board from individuals and groups.
- ▶ Facilitate an orderly review of board practices.
- ▶ Give the board a sense of direction.
- ▶ Make it possible to develop more specific rules and regulations.
- ▶ Improve efficiency by delineating responsibilities, duties and working relationships.



Legal requirements

Not only are written policies a good administrative practice, but they are required of school boards by Kentucky law, which states that each board must have on file at its office policies relating to many topics, including:

- ▶ Pupil transportation.
- ▶ Discipline and conduct of pupils.
- ▶ Limitations or restrictions on use of school facilities.
- ▶ Conduct of board meetings, including policies on the calling of closed/executive sessions.
- ▶ Employment and evaluation of the superintendent.
- ▶ Personnel policies that apply to certified employees, including duties, fringe benefits, salary schedules, non-classroom duties, professional development, teacher-student ratio, hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion and demotion.
- ▶ Identification and statement of district goals and objectives, and establishment of criteria to determine district progress.
- ▶ Evaluation of certified employees.
- ▶ Selection of textbooks and instructional materials.
- ▶ Expenditures and accounting for school funds, including all special funds.
- ▶ School based decision-making (school councils).
- ▶ School safety.

Board policies carry the force of law in regard to operations of the school district, as long as they touch on issues within the board's authority and don't conflict with state or federal laws or regulations. A board's policies cover its own jurisdiction and there is no need for it to adopt state or federal laws and regulations. Policies must be updated annually by August 15 and are public records.

Policy and procedure: The distinction

Polymaking means not only developing policies, but also providing the means by which policies are carried out. A policy is a statement that describes an objective to be met. The ideal policy statement is one broad enough to include all (or most) cases likely to occur, yet specific enough to apply to a particular situation. Obviously, it may be difficult in all instances for one statement to meet both of these criteria.

Because of this, policy statements are often supplemented by administrative procedures. Administrative procedures specify particular courses of action within the framework of policy. The board can view the policies as more basic and check proposed administrative procedures to see if they are in accord with policy. Most boards review administrative procedures, but do not formally adopt or approve them. Here's an example:

The board adopts a policy that the schools will charge a fee for the use of cafeterias by approved nonschool groups. The superintendent prepares a usage application form – a procedure. The board reviews, but does not adopt the proposed application form.

Unlike policy which generally requires two readings for approval, administrative procedures only require one review by the board with an opportunity to make comments.



Q. What is the statutory authority for boards to establish policies?

A. KRS 160.290 says each board will make and adopt – and may amend or repeal – rules, regulations and bylaws for its meetings and proceedings. This is done to govern, regulate and manage the schools and property of the district; to transact the district's business; and to specify the qualifications and duties of employees and conduct of pupils.

Q. Is a board of education bound to obey its own policies?

A. Yes. The rules and regulations of a board of education are binding upon the board itself and all parties dealing with it until repealed or amended by an affirmative vote of a majority of the board.

The board and policy development

A policy statement clarifies the manner in which the board, administration, staff, pupils and citizens of the community relate to one another to meet their goals and objectives. A full agenda of routine business at a board meeting sometimes results in a board having little time to consider policy development. However, taking the time to develop a full set of consistent, written policies likely will make it easier to handle many problems that arise at board meetings and in the daily operations of the schools – and handle them to the greater satisfaction of all parties involved. Therefore, many boards of education reserve specific board meetings throughout the year for working sessions to evaluate current policies and to consider new ones.

The superintendent generally is responsible for developing proposed drafts of new policies. State law requires the superintendent to prepare, under the board's direction, all rules, regulations, bylaws, and statements of policy for approval and adoption by the board.

Board policy and school council policy

The Kentucky Supreme Court in *Board of Education of Boone County vs. Bushee* ruled the board has no authority to adopt a policy that requires board approval of council policy in an area over which the council has responsibility by law. A board can still adopt a position on what it believes the standard should be, but at the same time acknowledge that the council can adopt whatever policies it wants in areas reserved specifically for the council. If there is a difference between the two, the council does not need board approval and by the same token, the board may still address any subject that is a community interest or concern.

In some cases, the council, rather than reinventing the wheel, may simply adopt district policy as its own so that it can concentrate on other areas. Boards and councils can collaborate, if they wish, to reach a mutually agreeable policy. Not all schools will choose to adopt the school-based decision making governance. Those schools will still need a general district policy framework.

The board is a platform for addressing the community's interests and views. In line with that, the board has a responsibility to require reports and information from the superintendent and/or council on district and school progress, plans and actions. The board can provide a valuable service by bringing to the community issues that should be discussed and considered by the community as a whole.




Q. If there is no council policy addressing an area or a situation, do the school and school staff have to abide by board policy?

A. Yes. The council is a policy-making body for the school and, as such, is responsible for setting policy in those areas designated by KRS 160.345.

However, absent council policy in a designated area, board policy will apply.

In areas not addressed in KRS 160.345, board policy governs, even if the council has a policy.

Some controlling statutes and regulations for this chapter: KRS 160.290; 160.340; 160.345; 160.370



Chapter 7

Student Achievement and Student Assessment

The reason we serve

Our public education system exists to support student achievement. The local board represents the community by making sure that tax dollars are used effectively and efficiently on behalf of their students. Student achievement may be more broadly defined to include work ethic, character education and job skills, but academic achievement is the core purpose of schooling.

Achievement, assessment and accountability

As school leaders, it is important for board members to understand the distinctions between students' academic achievement, student assessment and school accountability. Following the decision of the Kentucky Supreme Court in the *Rose v. Council for Better Education* case, which held that the state must provide an efficient system of public schools that is adequately and equitably funded, and the resulting enactment of the Kentucky Education Reform Act (KERA) in 1990, student achievement is generally defined as a child having acquired the eight capacities listed below, and by meeting the academic standards adopted by the Kentucky Board of Education.

Assessment refers to the processes by which a child's achievement is measured, to determine if that child has acquired the fundamental capacities. Assessment is a broad concept, not limited to any single exam, and occurs throughout the school year. Student assessment includes daily classroom assignments, course exams, attainment of a high school diploma, and the various standardized tests mandated under the statewide assessment program and administered to all students at specific points in their school career.

Accountability refers to the process of measuring and publicly reporting the performance of each school and each district in terms of the achievement of its students as measured by assessment processes, as well as many other aspects of school operations. Because every child must be provided with an equal opportunity to have an adequate education in public schools, school staff and leaders are accountable to their students, parents, taxpayers, state legislators and the general public.

Defining student achievement

There are clearly defined state and federal parameters for addressing student achievement in Kentucky. Local school boards have the option of further defining what student achievement in their district looks like, but they must ensure that all students are successful in the following capacities:

- ▶ Communication skills necessary to function in a complex and changing civilization.
- ▶ Knowledge to make economic, social and political choices.
- ▶ Core values and qualities of good character to make moral and ethical decisions throughout their life.
- ▶ Understanding of governmental processes as they affect the community, the state and the nation.
- ▶ Sufficient self-knowledge and knowledge of their mental and physical wellness.
- ▶ Sufficient grounding in the arts to enable them to appreciate their individual cultural and historical heritage.
- ▶ Sufficient preparation to choose and pursue their life's work intelligently.
- ▶ Skills to enable them to compete favorably with students in other states. (KRS 158.645)

Laws impacting student achievement

Kentucky Education Reform Act (KERA) 1990

In 1990, the General Assembly adopted a standards-based system of education for our children. KERA sets high standards for all students, requires accountability for meeting those standards, calls for local school-based decision making, and defines programs that help schools and students reach those goals. Among those programs are family resource and youth service centers, technology and professional development.

Achievement gap

The General Assembly has defined “achievement gap” to mean a substantive performance difference on each of the tested areas by grade level of the state assessment program among the various subgroups of students as described in the federal Every Student Succeeds Act (ESSA) of 2015, including male and female students, students with and without disabilities, students with and without English proficiency, minority and nonminority students, and students who are eligible for free or reduced-priced lunch and those who are not eligible for free or reduced-priced lunch. (KRS 158.649)

Kentucky first made reduction and closure of achievement gaps a priority, by statute, in 2002. More recently, pursuant to changes in federal law, the General Assembly has again made this a top priority of all stakeholders in the public education system, including school boards. Senate Bill 1 of 2017 requires local boards to adopt a policy for reviewing academic performance on state assessments for various student groups that historically demonstrate achievement gaps. These policies must include annual targets for gap reduction, and annual review and revision of school improvement plans to reflect these targets.

No Child Left Behind Act (NCLB) 2001

The federal No Child Left Behind Act of 2001 required schools and districts to review student subgroup data. NCLB called for high expectations for all students, with rigorous student performance standards tied to annual assessments in grades three through eight and one grade in high school. It also required multiple assessments, school accountability, school report cards, proficiency by 2014 and increased graduation rates.

Senate Bill 168 of 2002

In 2002 the General Assembly enacted Senate Bill 168 to address student achievement gaps, requiring schools and districts to review student achievement data for subgroups of student populations within each school as well as the district. Any achievement gaps among different groups of students are required to be addressed by the school and the district. Specifically targeted are:

- ▶ Racial minorities
- ▶ Students with disabilities
- ▶ Gender disparities
- ▶ Low socioeconomic groups
- ▶ Students with limited English proficiency or who qualify for English as a second language programs

In 2017, the language was expanded to include “any other subgroups” as described in the ESSA.

Unbridled Learning

The General Assembly required the development of a new assessment and accountability system pursuant to Senate Bill 1 of 2009. The model, known as Unbridled Learning, was a balanced approach that incorporated all aspects of school and district work and was organized around the Kentucky Board of Education's then-four strategic priorities: next-generation learners, next-generation professionals, next-generation support systems and next-generation schools/districts.

Every Student Succeeds Act (ESSA) 2015

The federal Every Student Succeeds Act of 2015 made significant amendments to the provisions of NCLB. ESSA is the current federal law relating to academic standards, student achievement, assessment, accountability, various federal education support programs and other aspects of education policy. ESSA was designed to give states additional flexibility and more state and local control over the accountability process. ESSA calls for schools to be evaluated on how well they perform on five indicators: proficiency, achievement gap closure, student growth (at the elementary and middle school levels only), transition readiness, and opportunity and access. Each of these indicators must include multiple measures. The actual accountability system, while required to meet these minimum standards, is created by each state.

Under ESSA, the Kentucky Department of Education must submit a state plan to the U.S. Department of Education that provides an assurance that Kentucky has adopted challenging academic content standards and aligned academic achievement standards that include not less than three levels of achievement. Further, ESSA requires Kentucky to have academic standards and assessments for math, reading/language arts and science, and permits standards for other subjects.

Assessments must involve multiple measures of student achievement, including measures that assess higher-order thinking skills and understanding, which may include measures of student growth. Math and reading/language arts must be assessed yearly in grades three through eight and once in grades nine through 12. Science must be assessed at least once in grades three through five, grades six through nine, and once in grades 10 through 12. Assessment results must be disaggregated in subgroups similar to those in Kentucky's Senate Bill 168 of 2002.



In addition, ESSA requires states to establish a means of identifying schools that need comprehensive support and improvement, which includes the lowest-performing 5 percent of schools and any high school failing to graduate one-third or more of its students. An annual state report card must also be made available online that provides a clear and concise description of Kentucky's accountability system.

KDE developed and submitted a new assessment and accountability system to the U.S. Department of Education in September 2017.

Senate Bill 1 of 2017

In 2017, the General Assembly enacted Senate Bill 1, primarily to bring Kentucky into compliance with the new requirements of ESSA. SB 1 of 2017 reformed the process for ongoing review and amendment of statewide academic standards, and the related process for amending the assessment system, including standardized tests, to ensure alignment to the content standards. SB 1 also made substantial amendments to the school and district accountability system, and the procedures to be used for improving student achievement in lower-performing schools.

The Kentucky accountability system developed as a result has students at its center – ensuring they are well-rounded and transition-ready; and prepared with the knowledge, skills and essential dispositions to successfully pursue the pathway of their choice after graduating from high school. Key goals of the system include:

- ▶ Promote higher levels of student learning and achievement.
- ▶ Reduce achievement gaps and ensure equity.
- ▶ Establish opportunity and access for students to receive a quality education.
- ▶ Build a culture of high expectations and continuous improvement.
- ▶ Communicate a clear and honest understanding of strengths and opportunities for improvement in schools and districts.

This new system uses multiple academic and school quality measures, not a single test or indicator. An overall rating will be determined by setting standards for low to high performance on indicators. These indicators and measures contribute to a school/district overall accountability rating: Proficiency, growth, graduation rate, transition readiness, achievement gap closure, and opportunity and access

Additional information will also be reported to provide a more complete picture of education in Kentucky. Results will be reported in an online Report Card displaying the overall rating as well as the performance on the indicators from which it is derived. Individual student group data will be available and individual reports on student performance will be issued to parents/guardians.

The school board's role in student achievement

The local school board should always focus on student achievement and organize meetings to ensure that discussion of student achievement is foremost and ongoing. School board meetings should include discussion about student achievement with the superintendent and support staff, school councils and community groups. Student achievement data should be reviewed for progress toward goals, used to make budget and policy decisions, and analyzed to plan for the future. Board members should expect to hear how school and district programs contribute to improving student

achievement and they should be willing to ask questions to better understand how the programs will benefit students.

Assessing student achievement using data

There are numerous and varied measurements of student achievement in Kentucky schools. The local board of education's meetings should include regular review and discussion of multiple data indicators to ensure continual improvement for all students.

Reviewing and using data

Research shows that board members in high-achieving districts are well-informed about their district data – both the strengths and the areas that could improve. The school board should discuss assessment results openly and honestly, involving district and community stakeholders in two-way give-and-take. The board and community need to understand student progress in meeting school, district, state and national goals. Student performance should be reviewed on at least an annual basis and used to determine what adjustments must be made to further improve progress. Student progress should be reviewed from various perspectives – students, subgroups, school and district. The board should determine through data review that student assessment data is used regularly to drive effective teaching and learning. Every decision made for students should be based on data.



Points to discuss about student assessment data and progress

The following questions may be helpful in guiding discussions about student assessment data and student progress:

- ▶ How well are our schools doing and where do they need to improve?
- ▶ What does the data show about our students' performance?
- ▶ According to the data, which subject area should be the priority for district focus?
- ▶ What percentage of students in each grade are performing at or above grade level?
- ▶ Does the data demonstrate progress from year to year?
- ▶ What evidence do we have indicating that students have improved since the beginning of the year?
- ▶ Are all subgroups of students showing improvement?
- ▶ Are achievement gaps narrowing for subgroups of students?
- ▶ Which population of students has the greatest gap? What should we do to help them improve?
- ▶ What are the results of the program(s) we are using to increase achievement?
- ▶ Does the data support continuing to fund the program(s)?
- ▶ What are the trends in our student data, school data and districtwide data?
- ▶ How is this data communicated to the public?
- ▶ In what specific ways can the board continue to hold our district accountable and assist in reaching student, school and district goals?
- ▶ What are the implications from this data for our budget?
- ▶ What agenda items on student data should we set up for future meetings?
- ▶ Do any board policies need to be revised or written based on this data?

The role of the board in school turnaround

Senate Bill 1 of 2017 gave the local board of education a more direct role in providing enhanced intervention and support to schools that do not perform well under the accountability system, a process also known as school turnaround.

Going forward, when a school is identified as needing comprehensive support and improvement by virtue of its low performance in the state accountability system or a low high school graduation rate, the local board will select a turnaround audit team to diagnose the causes of the low performance and provide specific strategies to improve. Following the audit, the board will be required to select a turnaround team to design a plan to improve student learning and performance, and then must review and approve the plan.

Some controlling statutes and regulations for this chapter:

Student Achievement: KRS 158.645 (Capacities); 160.345; 160.435 (2) (i); 158.440

Assessment: 703 KAR 4:020; KRS 158.148; 159.051; 158.6455; 160.347; 703 KAR 5:270 (Accountability)

ESSA: P.L. No. 114-95



Chapter 8

Advocacy

The family of school stakeholders

The local board of education is just one of many stakeholders in the state's common school system. The other critical partners include students, parents, teachers, taxpayers, members of the Kentucky Board of Education, state legislators, college faculty and the general public. The system is operated, and financed, as a state and local partnership. As a result, the continuous support of all stakeholders is essential to success, ultimately measured by the students' achievement. In the current climate, too many of these stakeholders perceive the public schools to be "failing." The members of each local board of education can and must lead the way in addressing this misperception by accurately conveying the success of their schools, and by collaborating with others to build upon those successes. This work is known as advocacy.

Advocacy at the local level

The most important advocacy role school board members have is to maintain a relationship with their constituents. To have credibility with constituents, board members must be completely open, honest and committed to serving the children of their district. All taxpayers have the right, through their elected school board, to have a voice in the destiny of their own community's schools.

Board meetings

Board members must listen to their constituents and provide honest information about education through personal contact and through board meetings. Contact information for board members should be accessible and the time and place of board meetings must be appropriately publicized. If community members don't know how their tax dollars are spent and how decisions are made in the school district, they risk being disenfranchised. Board members must see that this information is provided.

The board meeting is where boards are most visible and most able to make information available. It also is the board's public forum and the district's showplace for student achievement. In many communities, board meetings are covered by the local news media. Staff who attend the meetings also report back to their co-workers about decisions and discussions. So the board of education meeting is a focal point of school-community relations, whether by design or default.

To best use the board meeting forum to show the board's attention to students, each meeting should feature a demonstration of student learning. While it's fine to set aside time for student and staff recognitions, it sends a totally different message when the board is willing to devote a portion of its time to watching and listening to students demonstrate what they are accomplishing. Here are just a few examples seen at Kentucky school board meetings:

- ▶ Science projects demonstrated.
- ▶ Technology use, including new equipment purchased by the board.
- ▶ Quick Recall challenges (sometimes involving board members themselves).
- ▶ Reading aloud samples from writing assignments.
- ▶ Verbal reports on field trips and their relation to classroom studies.
- ▶ Skits based on social studies research assignments.
- ▶ New instructional techniques to strengthen learning.
- ▶ Art, drama and dance presentations.

Vehicles of communication

While the board meeting is the district's primary vehicle for decisions, goals, progress and challenges, the crush of business to be conducted realistically limits the ability of board members, administrators, staff and guests to fully discuss many topics at these meetings. Therefore, some issues may demand more lengthy and thoughtful deliberation at single-purpose public forums.

While such forums should be carefully planned, board members and the superintendent may tailor the format to the topic. Any type of public forum format chosen by district leaders demonstrates that those leaders not only want to listen to the community but that they are willing to use their time and resources to reach out for that input. However, board members should also realize that the act of seeking public insight creates an expectation that they will listen to, consider and act upon the input in the final decision-making process.

District communications programs

Board meetings or other public events reach a portion of the community with the news about their schools and the accomplishments of their students. Yet, data from the U.S. Census Bureau shows that nearly three-quarters of the adults in a typical U.S. community have neither a school-age child nor a school employee in their households.

Boards and districts that are successful in community relations use a wide variety of tools, ranging from the relatively inexpensive and time-consuming to more sophisticated efforts that have a greater probability of reaching the intended audiences – and being heard.

Social media

In today's world of instant information – from text messaging to Twitter – board meeting comments and votes may be known by dozens of people before the meeting is even over. A school board that doesn't reach out to the community it serves – including the internal community of district employees – allows other forces to take control of the image of the board and the school system that it is striving to lead.

District and school websites and social media platforms have become influential as more parents – and nonparents – turn to them for information.

Websites and social media outlets should be reviewed and updated on a regular basis to maintain their value as a current resource of information for stakeholders.

School districts use their websites and social media to inform stakeholders of:

- ▶ School calendars, special events, athletic and academic team schedules.
- ▶ News about district achievements.
- ▶ Inclement weather closings.
- ▶ Board meeting agendas.
- ▶ Board policies and procedures.
- ▶ Post-meeting reports of board actions.
- ▶ School cafeteria menus.
- ▶ Special services to students and families.
- ▶ Homework assignments and assistance.
- ▶ Attendance records.
- ▶ Emergency numbers and crisis response procedures.
- ▶ Bus routes and schedules.
- ▶ Contact information at district and school levels.

The proper use of social media can be the most effective advocacy tool available today; however, misuse can be destructive. One fundamental, easily remembered rule to guide use of this tool is simple: If you wouldn't want a statement to be quoted on the front page of your local newspaper, don't post that statement in any way on any social media platform, whether it's a Facebook post, a private message, a comment to someone else, a Tweet, a picture, etc. Remember, too, that nothing is private. Even a fleeting comment made to a "friend" that is meant to remain private may be forwarded to someone else and re-posted publicly.

Television and district video

For some school board members, the idea of board meetings broadcast on television is a harrowing thought. Yet, a cable television feed of a board meeting on the local public-access channel enables people to see and hear exactly what takes place, not what someone else tells them occurred. Many districts, as well as the Kentucky Board of Education, now livestream and archive all meetings on their website.

As more student technology programs include video production among their class options, a growing number of districts are utilizing local public-access channels for student- and staff-produced videos and presentations about school activities, tips for parents and children, and demonstrations of classroom academic exercises. Some have also scheduled their own "talk shows," featuring an interview between a district staff person and teacher or student involved in an interesting activity.

Personal contacts

Keeping the public informed must be an ongoing activity. Although discussion at open board meetings and an organized public relations program can help provide information to the public, many people gain their information about the schools from personal contacts. Members of the board and of the school staff should remember that what they say in conversations with their friends and relatives will heavily influence the perceptions those people have about the schools. Board members in particular must be aware that their position lends weight to their words. Everything said about the schools will affect the views that some people have.

Communications staff

It ill serves a school board or district administration to pull together a public information tool only when there is a crisis, a need to refute a rumor or to gain strong community support for an initiative. That is why many school boards and superintendents have designated staff positions with public information responsibilities. Those leaders have access to someone who has the experience and knowledge of the communications tools that work and the most effective approaches to reach the public.

In Kentucky, district communications staff may have those duties full time or may have multiple responsibilities. Organizations such as the Kentucky School Public Relations Association ensure that district communications staff have a wealth of resources to call upon for both the routine initiative and the emergency situation.

Media relations

As elected officials, school board members can expect to be called on from time to time by reporters with local newspaper, radio and television outlets. Boards that make an effort to work with their local media will find it much easier to get the positive coverage that they want to balance the unfavorable stories that are as much a part of public service as are differences of opinion, complaints and human errors.

The news media have a responsibility to cover the news, and they will do so regardless of the amount of cooperation they receive from the school system. There is a natural tendency for organizations to release information about themselves that is only favorable. Attempting to withhold information from the media is self-defeating. If the board attempts to cover up some unfavorable information, the news media are likely to find out about it and report the information from their perspective. Without the cooperation of the board and staff, the information may not tell the whole story accurately; therefore, the board should attempt to make sure this information is as accurate and complete as possible.

Board members and the superintendent should discuss and establish a practice for responding to inquiries from reporters. The policy should include items such as who serves as spokesperson for the board (usually the chairperson) and for the district (usually the superintendent or the district communications director) and how crisis situations are handled. The policy should not prevent anyone from being honest and open with the media. Board members are members of the collective board but also individually elected representatives of their constituents. Each board member has the right to choose whether to respond to reporters' inquiries. However, board members should be ready and willing to refer an inquiry to the district administration when that is the appropriate source for a response.

Advocacy at the state level

While education happens locally, providing for the statewide public school system is the key function of state government. Because of that, board members must make their voice heard by those who make decisions that affect education at the state level. Board members must be willing to express their views and those of their constituents to key policy makers in the political arena, including the Kentucky General Assembly, the Kentucky Board of Education, and the governor and staff in the executive branch. The partnership only works if all partners are engaged and trusting.

The Kentucky Board of Education

It is important for local school board members to communicate with members of the Kentucky Board of Education from their area. The state board is a critical education policy maker, so its members should have the opportunity to meet local board members and to hear about their efforts and challenges in implementing education reforms and state regulations. KBE by law, promulgates administrative regulations, much like local boards set policy. The state board needs a perspective on the effects of its actions that is broader than the assessment provided by the Department of Education's staff. This would be comparable to local board members getting a perspective only from the superintendent and staff. Board members are encouraged to meet with state board members from their areas.

Agendas for Kentucky Board of Education meetings and supporting materials, including contact information, are available on the Kentucky Department of Education website at www.education.ky.gov.

If the state board of education is considering a controversial regulation, KSBA staff will notify local board members and superintendents about the pending action so they can communicate their position to state board members in their area. Local board members also may want to place discussion of the regulation on their board agenda, possibly taking an official position of support or opposition.

The General Assembly

Just like school board members, legislators must make challenging decisions to raise revenue or reallocate dollars away from other priorities to adequately fund public education. To do so, they need support from board members and superintendents in their local communities. The needs of children must be at the forefront in public-policy debates, but legislators primarily hear about employee needs and priorities. School board members can help ensure that decisions remain focused on students.

Legislators are influenced most directly by their local constituents, which is where school board members come in as legislative advocates. Board members can serve as legislative liaisons in their local district, host regional receptions for legislators and meet with them in Frankfort, and attend KSBA's Legislative Education Advocacy Day (LEAD) at the Capitol during each legislative session to make sure the presence of local education leaders is felt in Frankfort.

KSBA's Governmental Relations staff help individual board members, board teams and superintendents to lead policy discussions about public education with legislators in local communities.

Board members also can get involved in the election process by encouraging current or former school leaders to run for state elective offices, and actively supporting candidates whose voting records and positions further academic achievement and opportunities for students. The outcome of elections has an important impact on policy decisions affecting education, budget and tax policy, and other critical issues.

It is critical that board members establish trust and effective communication with their legislators so that they can convey to lawmakers the opinions of concerned constituents. Grassroots lobbying is a powerful tool in making government responsive to the governed and also reinforces the positions of lobbyist advocates for education. Grassroots lobbying means local board members are sharing these concerns and effectively communicating them to their legislators who value their constituents' opinions.

KSBA Legislative Agenda

In the fall before each legislative session, KSBA surveys its members, asking them to rank legislative issues by importance. Those survey results are used to create an initial draft of the annual Legislative Agenda. The draft is shared with KSBA's Governance Committee for input before being brought before the association's full Board of Directors for final approval.

Advocacy at the federal level

With the federal government playing an increasingly large role in local public education, local board members can extend their advocacy to the national level by contacting their U.S. senators and representatives.

The National School Boards Association involves local school board members in grassroots lobbying at the federal level. NSBA sponsors an annual meeting in Washington, D.C., early in the year, during which designated local board members visit the offices of their congressional delegation. KSBA staff coordinates a Kentucky delegation to this event each year.

Do's and Don'ts of working with legislators

- ▶ **DO** treat them with respect, as your state-level partner in our common school system.
- ▶ **DO** volunteer to provide additional data about the subject matter. When your issues come up, you want the legislator to think of you. Legislators want to be well-versed on all sides of your issue. It's in your best interest and theirs to provide accurate support material.
- ▶ **DO** ask for an appointment when you want a personal visit. Like you, members of the General Assembly are part-time citizen lawmakers who must balance their time. They rely on meetings with constituents, but appreciate the courtesy of scheduling an appointment in advance.
- ▶ **DO** know your subject matter inside and out. If you are going to be a spokesperson for an issue or a cause, be prepared to explain and defend it well.
- ▶ **DON'T** be the source of inaccurate or misleading information. As you know from board service, there is no substitute for truthfulness and candor in working with elected officials. Your reputation is everything.
- ▶ **DON'T** overstay your welcome. If you say you need 15 minutes, then speak your piece, check the clock, and be on your way.
- ▶ **DON'T** bring volumes of written material with you. Unless the subject is extremely complex, a brief written summary or fact sheet is more likely to be read.
- ▶ **DON'T** fail to come armed with the facts. You must demonstrate through tangible evidence supported by facts that a particular action is both desirable and justifiable – and the ultimate burden of proof is on you.
- ▶ **DON'T** run down the opposition. Name-calling or derogatory remarks don't win friends and influence legislation. If your issue can't stand on its own merits, then your cause is already lost.
- ▶ **DON'T** burn your bridges when you don't win. Working with the legislators is an investment that may not pay off immediately.



Chapter 9

Fiscal Management

Ultimate responsibility

Public funds come from taxes, and it's the job of the elected local board of education to make sure the taxpayers' money is managed properly. The board can delegate administration of these funds to the superintendent and school councils, but it is ultimately responsible. Fiscal management is more than adopting a tax rate and approving a budget. It is seeing that the right programs are funded, that purchasing procedures are followed resulting in the best product for the cost, that funds are invested in a way that gets the best return, that assets are properly insured, and generally that all funds are properly managed. Most importantly, good fiscal management ensures that the budget adopted by the board is followed and not exceeded without its permission. The board develops a budget plan for utilizing funds and provides oversight of ongoing accounting of the actual spending.

Every board member should understand the programs and operations of the district. The budget is the single most important document handled by the board because it reflects the district's direction, priorities and philosophy. To effectively do their job, members must have a basic understanding of budget documents.

Budget development

The local board, through its policies, is responsible for developing a budgeting process that includes planning and reporting to the community. There is a fundamental connection between financial resources and how they are allocated, and the district's ability to provide a quality education to students. Board members should become knowledgeable enough about the budget and process to be able to discuss and share with constituents.

State statutes give local boards control over public school funds. The board takes action on three types of budget documents during a year:

- ▶ **Draft Budget** – The board must adopt a Draft Budget by Jan. 31 each year. The Draft Budget is an estimate and often mirrors the previous year's budget. It should include all revenues and expenditures that are known at that time as well as at least a 2 percent contingency. Special Revenue and Construction Funds are not presented at this time.
- ▶ **Tentative Working Budget** – The Tentative Working Budget must be adopted by May 30. This is a refinement of the Draft Budget and includes all funds. The Tentative Working Budget includes the most recent revenue and expenditure figures, along with next year's salaries. The district is required to include at least a 2 percent contingency in this version. This budget is as close as possible to what is actually expected.
- ▶ **Working Budget** – The Working Budget is the final budget for the school year, encompassing the fiscal year, which runs from July 1 through June 30. The Working Budget must be adopted by Sept. 30.

To accomplish this, it's essential for the board to follow the law and support district priorities. The district's superintendent and finance officer will develop the budget for board consideration. A needs assessment also can guide the board team when deciding budget priorities. A needs assessment is a process to determine needs of a school or school district. It may include both learning needs of the students and physical needs (equipment, buildings, etc.) of the school or district.

The board's budget responsibilities

The majority of these duties are delegated to the superintendent or his designee, but the board is ultimately responsible for:

- ▶ Ensuring the development of a budget calendar.
- ▶ Reviewing property assessments. The superintendent should review the property assessments each year and compare them with those of previous years.
- ▶ Ensuring that the appropriate property tax rate has been set.
- ▶ Examining the amount of delinquent property taxes collected by the county clerk and/or county attorney.
- ▶ Ensuring the budget includes sufficient funds reserved to correct deficiencies and needed changes.
- ▶ Making sure that depository bank(s) are appointed consistent with KRS 160.570.
- ▶ Approving all salary schedules for the district, including extended days and extra services.
- ▶ Projecting the impact of the salary schedule over several years.
- ▶ Knowing how much is being expended on administration.
- ▶ Knowing the teacher-pupil ratio in each school at each grade level.
- ▶ Being aware of the history of past expenditures and receipts.
- ▶ Projecting enrollments over the next five years. Be aware of the impact of increasing or decreasing enrollments.
- ▶ Ensuring that payments for all payroll taxes, retirements and insurance are being made on time.
- ▶ Ensuring that there is security and integrity of the check writing and issuance process.
- ▶ Ensuring that receipts are recorded daily.
- ▶ Knowing if the district is involved in pending litigation that could adversely affect its financial health.

Fund accounting

The Kentucky Board of Education requires districts to use the Municipal Information System (MUNIS) for fund accounting. MUNIS provides comprehensive financial reporting options, most of which are beyond what is needed for oversight by the board or the general public. This doesn't mean that the comprehensive reports should not be made available to board members or the public if requested. However, district finance staff should develop financial reports that everyone can easily understand.

The major purpose of fund accounting is to provide a way to ensure that the funding is being used as intended. MUNIS accomplishes this through a double-entry accounting system with a detailed coding system. It is not necessary (or advisable) for board members to memorize the entire coding system; however, it is important to know the fund account under review. The fund account (budget) will be listed at the top of the MUNIS printout. For example, General Fund (1), where the (1) is the digit code designating the general fund.

MUNIS provides for many different fund accounts, but these are specifically required: the general fund, special revenue funds, capital outlay fund, building fund, construction fund, school food service fund and capital assets funds. Each fund is a separate group of accounts with its own revenues, expenditures, assets, liabilities and fund balances. Each has detailed records of revenues and expenditures, a record of all transactions and a balance sheet that summarizes the assets, liabilities and fund balances of the school district.

Here are brief descriptions of these fund accounts:

- (1) GENERAL FUND – The General Fund includes all financial resources except those that are separate because they are restricted for specific purposes. The General Fund is used for normal expenditures in the district, such as paying salaries, providing transportation, maintaining buildings and purchasing supplies and equipment.
- (2) SPECIAL REVENUE FUNDS – This account includes financial resources that are required to be spent for specific purposes. Funding from state and federal programs, such as Title I moneys, are included in this account.
- (310) CAPITAL OUTLAY FUND – Kentucky’s state support allocation program, SEEK (see below), provides \$100 per pupil for the Capital Outlay Fund. Expenditures are limited primarily to direct payment of construction costs and debt service for facilities. However, more recently, the General Assembly has provided greater flexibility in using these funds. Boards should review the state budget language annually for exceptions.
- (320) BUILDING FUND – Proceeds from the state Facilities Support Program of Kentucky (FSPK) and local building-related revenue, are deposited in this account. These moneys can be spent only on debt service on facility bond issues, new facilities and major renovations of existing facilities listed in the district’s approved facility plan.
- (360) CONSTRUCTION FUND – Revenue and expenditures for ongoing construction projects should be processed in this fund. Revenue from a bond sale for construction of a school is deposited here and the payments to the contractor, architect, etc., are made from this account.
- (51) SCHOOL FOOD SERVICE FUND – All receipts and expenditures for the school food service operations of the district are processed through this account.
- (8) and (81) CAPITAL ASSETS FUNDS – All capital assets and related accumulated depreciation are recorded in these accounts. Capital assets include land, buildings, infrastructure, vehicles, technology equipment and furnishings.

Revenue

State

The fund to Support Education Excellence in Kentucky (SEEK), implemented by the General Assembly as part of the Kentucky Education Reform Act (KERA) in 1990, is the foundation program for state funding of public education. The program is administered by the Kentucky Department of Education. The amount of state SEEK funding provided to each district is determined by an allocation formula codified in statute. It begins with a base amount of per-pupil funds that is then adjusted to account for local tax efforts, add-on funding for special student needs, transportation reimbursement and other issues. The General Assembly establishes a per-pupil amount of base

funding for each biennial budget cycle. This guaranteed base funding is tied to prior-year average daily attendance adjusted for growth in the district's enrollment.

The add-ons to the SEEK funding take into account additional costs in educating at-risk and special needs students, as well as English language learners, and instruction to home and hospital-bound students.

Capital outlay

State capital outlay funding provided to districts is based on the average daily attendance, multiplied by \$100. These funds are generally restricted to capital outlay projects, but the General Assembly has in some years approved temporary legislation permitting these dollars to be used for other purposes. Local school boards must develop a district facility plan every four years, with the assistance of a local planning committee and their architect in a prescribed process that also involves public hearings. The plan must be approved by the state board of education. This is designed to prioritize building needs.

Local taxation

School boards have been granted taxing authority and may levy taxes up to a predetermined maximum rate. Examples of revenue streams include property taxes levied on real estate and personal property, utility taxes and occupational taxes. The board's options for setting property tax rates include the compensating rate, which keeps revenue neutral from the prior year; or setting a rate that will generate up to 4 percent more in revenue than the prior year. Any property tax rate that generates above the 4 percent revenue increase is subject to voter recall.

The timeline for the annual property tax rate-setting process is as follows: The local property valuation administrator sends data to Kentucky Department of Revenue, which then forwards assessment certification to the Kentucky Department of Education. After the school district submits an Unaudited Annual Financial Report in July, KDE will use the combined data from that report and the assessment certification to calculate tax rate options for the local school district. Tax rate options are generally sent to the school district in early August.

Districts may also increase Building Fund revenues by levying an additional nickel property tax rate, which may result in matching funds from the state.

School activity accounts and The Redbook

School activity accounts, also called activity funds, are primarily handled at the schools. This money is generated by students and should be spent only for students. Activity funds are separate from the board allocation to the school council. Revenue is received and checks for expenditures are written at the school on these activity accounts. These funds will include receipts from athletic contests, concessions, school fundraisers, bookstore sales and school club accounts. The principal has primary responsibility, but the board of education is responsible for oversight of school activity funds and is responsible for any debt the school council may incur.

Management of these funds is governed by the "Accounting Procedures for School Activity Funds," commonly referred to as The Redbook, which outlines a method of uniform accounting. Principals and school bookkeepers should have copies of The Redbook and receive related training. It is available on the Kentucky Department of Education website.

The Redbook lists these best practices for school activity funds:

- ▶ All accounts are kept in one interest-bearing bank account.
- ▶ The board receives monthly financial reports of school accounts, with copies retained at the central office.
- ▶ Accounts are reconciled monthly.
- ▶ The school uses a uniform system of internal accounting.
- ▶ A purchase order system is used.
- ▶ Tickets are used for athletic events.
- ▶ Drink machine receipts are properly reconciled to expenditures.
- ▶ Salaries are not paid from school accounts, particularly not athletics coaches.
- ▶ The board approves all schoolwide fundraisers.

The school council's role

By regulation, categorical funds are exempt from the school council allocation formula and are under the district's authority. Councils should, however, be involved in the planning of the budget of categorical programs.

Investments and banking services

Investment practices should ensure maximum yield, taking into account cash availability and protection of taxpayers' dollars. State law requires the superintendent to appoint a finance officer who is responsible for the district's cash, investment and financial management. Banking services should be procured competitively, through a bid process using a Request for Proposals (RFP).

Any funds that are temporarily in excess of operating needs should be invested. The board may have an agreement with its depository to invest surplus funds there, or it may shop around for the best interest rate.

The board should receive, at a minimum, a monthly report showing the amount of funds invested, the type of investment (CD, Treasury bill, repurchase agreement, etc.), the length of investment, the interest rate received and the name of the financial institution where the funds are invested.

Purchasing

The failure of boards and superintendents to pay attention to purchasing services, materials and supplies can create tremendous problems for a school district. Boards are responsible for setting purchasing expectations for school councils, teachers and administrators. Board members should not, however, attempt to influence school personnel in the area of purchasing and should not do "favors" for gain of any kind – monetary, political or friendship. Board members should not get involved in "micro purchasing," because the day-to-day operation of the district is the superintendent's responsibility. Once the board has adopted the budget and approved a bid calendar, its role should be to protect the integrity of the purchasing process.

Oversight

Boards should ensure the district has an organized method for determining purchasing needs of all programs. This can be accomplished through the needs assessment of the budget process. Boards

also should ensure that purchases made through bidding are made in an organized and systematic way, and that bid maximums are not exceeded. A bid calendar can help.

The following are some pitfalls to avoid and practices to follow:

- ▶ Invoices should not be split to circumvent the bid laws.
- ▶ Although the bid laws usually are interpreted to apply to fiscal years, avoid the practice of dividing purchases over two fiscal years to circumvent bid requirements.
- ▶ The same concerns above apply to the internal accounts of individual schools.
- ▶ Boards should ensure that procedures in the purchase order system clearly delineate who can purchase services, equipment and supplies.
- ▶ Boards also should ensure that the system has a procedure that describes how purchases are received and distributed.
- ▶ Listings of bills and claims paid from internal accounts should be organized and filed in the central office and should be made available for public review.

Financial conflicts of interest

Board members cannot have a direct or indirect interest in the sale to the district or schools of any services, materials, equipment or supplies. If a board member benefits monetarily from any expenditure by the board, then most likely there is a conflict.

Bidding

Boards operate under the bid law found in KRS 424.260, or may elect to follow the state Model Procurement Code, KRS 45A.345 to 45A.460.

Bid Law - KRS 424.260

Under this law, districts are generally required to reasonably estimate the total dollar amount of “like” items or services to be purchased during the fiscal year. If the total amount exceeds \$20,000, the district must advertise for bids unless an exception applies. The bid law contains exceptions for professional services, and special requirements apply under federal law for food and supplies purchased for use in federally funded food service programs. Districts don’t have to request bids on perishable meat, fish and vegetables (if not purchased with federal food service funds), or for professional contractual services, such as architectural, engineering and accounting services.

As an alternative to advertising for bids, the district may purchase supplies and equipment via an established price contract of the federal government (General Services Administration), the state Finance and Administration Cabinet or educational cooperatives.

State price contracts are between state government and vendors; school districts can purchase items through these contracts without having to seek bids locally. The commissioner of education provides districts with a list of state price contracts. This exception to the bidding requirements allows local school districts to purchase supplies and/or equipment outside the bidding procedure if:

1. the supplies and/or equipment meet the specifications of contracts awarded by the state Finance and Administration Cabinet, a federal agency (GSA), a school district that allows other districts to use its bids, or a cooperative;
2. the supplies and/or equipment are available for purchase at a lower price; and
3. the district’s finance officer or purchasing officer has certified 1 and 2.

Model Procurement Code

KRS 45A.343 permits any local public agency to adopt the Model Procurement Code. If adopted, no other statutes governing purchasing apply.

The general rule under the code is that all contracts or purchases are to be awarded by competitive, sealed bidding. As set out in statutory provisions, the code allows competitive negotiations, noncompetitive negotiations, and negotiations after competitive sealed bidding on some occasions, if specific written findings are given. Model procurement allows local school districts to acquire supplies and/or equipment outside of the purchasing agreements held by the federal government, the state Finance and Administration Cabinet or education cooperatives if:

1. the purchase is for less than \$2,500;
2. the supplies and/or equipment meet the same contract specifications;
3. the supplies and/or equipment are available at a lower price; and
4. the district finance officer has certified items 2 and 3.

Districts operating under the Model Procurement Code also may accept a price reduction on supplies and equipment offered by a vendor with whom a price agreement has been made.

Districts may accept special price reductions even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement.

Small purchase procedures (MPC)

A school district can use small purchase procedures for any contract that does not exceed \$20,000 in the aggregate, if small purchase procedures are in writing and available to the public.

Audits

State law requires that the State Committee for School District Audits has the accounts of school boards audited every year. The committee may, at any time, require a comprehensive and complete audit of any board. The commissioner and the Kentucky Board of Education are required by law to receive and examine all audit reports, and advise all boards of education on the expenditures, business methods and accounts.

The Committee for School District Audits has statutory authority to select the auditor, but usually accepts the recommendation of the local board. The board is responsible for paying for the audit of the district's General Fund, as well as the audits of high schools. Audits of other accounts (school food service, federal programs, elementary and middle schools, etc.) may be paid either out of those accounts or from the board's General Fund. All accounts are conducted as a single audit and contained in one audit report.

The board should meet with the auditor prior to the audit to give any special instructions, including pointing out any areas that it would like to be closely scrutinized. Instructions should never include asking the auditor to ignore any area. This meeting must be open to the public.

The board should direct the auditor to determine whether the board is properly executing its responsibilities, and include those findings in its report.

All local boards are required to report in writing to the commissioner of education the progress being made to correct exceptions appearing in school audits, or justify in writing any failure to correct exceptions.

At a minimum, a local board should require that the annual fiscal audit be presented to the full board following its completion of the audit; that the auditors conduct an exit conference with the district staff; and that the management letter from the auditor be part of the audit process. Management letters include details of weaknesses and all changes recommended in the district's financial processes.

Insurance

The board should ensure that all board-owned property has adequate property insurance coverage, and that state requirements governing property and fleet insurance are being met. Boards must have policies regarding the purchase of liability insurance for the school-based decision making councils as well as errors and omissions and liability insurance for board members and employees. The board also should ensure that the district has a loss-control program as part of its risk management program.

Federal grants

All school districts receive funding from the federal government, and many receive grants for categorical programs from a variety of sources. A categorical program is one that has a specific source of funding that can be used only for that program. Though the mechanics of these programs can be confusing, board members should require that the superintendent give them a summary of the various grant-funded programs that includes the name of the grant, the funding amount, the type of grant, a description of services provided, and the person responsible for administering the grant. Board members should be familiar with the different federally funded programs and understand that federal regulations limit administrative discretion in using federal funds.

The Elementary and Secondary Education Act (ESEA) is the primary federal law relative to K-12 education needs and issues. Through the years it has included more than 60 programs, and thousands of regulations. The largest of the programs is Title I, which provides funds to improve the educational skills of disadvantaged children. The Every Student Succeeds Act (ESSA) of 2015 is the most recent reauthorization of ESEA.

State grants

Although KERA combined most funding sources to schools through SEEK, several strands of KERA are funded through grants. These include staff development, preschool, extended school services, technology, family resource and youth service centers, textbooks, school safety grants, Commonwealth School Improvement grants, and the gifted and talented program. The state department of education can retain a percentage of the legislative funding of most categorical programs for its own use. Some of the money retained is for its priority programs and some is used for awarding grants to districts as pilot programs.

Other grants

Many nonprofit foundations and for-profit corporations provide competitive grants to schools and school districts, ranging from a few hundred dollars for a classroom project to millions of dollars for larger programs.

Boards should, as part of the information they receive from the superintendent, ensure that grant money received or sought is for projects and programs that are in line with the district's needs and objectives.

Some controlling statutes and regulations for this chapter: KRS 160.290; 160.180; 160.570; 424.260; Chapter 45A; 156.076; 702 KAR 3:130, 702 KAR 3:245; 702 KAR 3:030; Public Law No. 114-95 (ESSA)

WE WORK FOR YOU

The Kentucky School Boards Association serves local school board members across the Commonwealth. KSBA focuses on programs and services that help you focus on creating successful students and stronger communities.

Training

As a school board member, you must meet certain training requirements set forth by the state. Through conferences, online and self-study modules, and in-district sessions, KSBA helps you meet those requirements and gives you the tools you need to better serve your students. KSBA also offers training on legal and policy matters so you can stay up-to-date with changes in school law and policy.



Services

KSBA's roster of services help school boards best perform their elected roles. Services include policy development, superintendent searches and legal services, as well as helping schools become more efficient, recoup funds through Medicaid billing and address unemployment claims.



Advocacy

Decisions made at the state and federal levels impact the ability of schools to provide a world-class education to students. KSBA advocates in Frankfort and Washington on behalf of school boards, their students and strong public education.



Information

KSBA strives to keep you up to date on what is going on in education across the state and the nation. The KSBA flagship magazine, the *Kentucky School Advocate*, social media outlets and newsletters all target the information you need to know to better serve students in your schools.

