



KENTUCKY GENERAL ASSEMBLY Office of Education Accountability

MEMORANDUM

TO: DONNA HARGENS, FORMER SUPERINTENDENT
JEFFERSON COUNTY PUBLIC SCHOOLS

FROM: DAVID WICKERSHAM, DIRECTOR
OFFICE OF EDUCATION ACCOUNTABILITY

DATE: AUGUST 4, 2017

SUBJECT: INVESTIGATIVE FINAL REPORT

A handwritten signature in black ink, appearing to be "David Wickersham", written over the "FROM" field of the memorandum.

The Office of Education Accountability (OEA) has completed an investigation of allegations of wrongdoing in the Jefferson County Public School District (JCPS). This office is empowered to investigate complaints dealing with regulatory and statutory issues [KRS 7.410(2)(c)4, KRS 160.345(9)(b)]. This agency is to have access to all public records in the course of an investigation [KRS 7.410(2)(d)].

In February and March 2017, OEA staff visited the district and interviewed principals, teachers, and instructors, as well as those responsible for the Local Educator Assignment Data (LEAD) report. The district and schools provided requested documents to OEA staff. OEA has received a response from Superintendent Hargens and Acting Superintendent Marty Pollio; all of the information submitted in these responses has been reviewed. Based on that review by OEA staff, the following represents the **FINDINGS, CONCLUSIONS,** and **RESOLUTIONS** by OEA.

ALLEGATION #1: The 2014-2015 LEAD report for The Academy at Shawnee was submitted by JCPS to the Education Professional Standards Board with false information in order to allow a non-certified staff member to teach classes without the supervision of a certified teacher.

FINDINGS

Connor Loew was hired to teach at The Academy at Shawnee (Shawnee) in the JCPS for the 2014-2015 school year. Then-Principal Houston Barber advised that Ms. Loew was hired to teach Spanish and Humanities in the middle school grades of Shawnee. According to Principal Barber, he had no indication that Ms. Loew did not possess an appropriate teaching certificate when she was hired. Interviewees stated that Ms. Loew was supposed to complete her Kentucky Teacher Internship Program in 2014-2015, but she failed to pass the required PRAXIS test to qualify.

The Education Professional Standards Board (EPSB) provided OEA with the LEAD reports for the 2014-2015 school year. The Shawnee pages of the JCPS LEAD report listed Ms. Loew as the primary teacher in eight courses; four Spanish courses and four arts and humanities courses. Ms. Loew did not possess a professional teaching certificate during the 2014-2015 school year. Further, the report listed Ms. Yanay Feria as an additional teacher with Ms. Loew for the four Spanish classes and Mr. Paul White as an additional teacher with Ms. Loew for the four arts and humanities classes. It was explained by EPSB staff that since additional, appropriately certified teachers were listed for the same classes as Ms. Loew, the LEAD report would not have generated an error report.

The same LEAD reports listed Ms. Feria as primary teacher for eight additional Spanish classes and Mr. White as primary teacher for five additional arts and humanities classes. The courses listed for Ms. Ferial and Mr. White constitute a full class schedule for each of them, leaving them no time in the instructional day to co-teach with Ms. Loew.

OEA staff interviewed Ms. Ferial and Mr. White regarding their teaching schedules and duties for the 2014-2015 school year. Ms. Ferial advised that she taught in the high school wing of the school, was not in close proximity to the middle school classrooms, and had a full class schedule for 2014-2015. She further

advised that she did not co-teach with Ms. Loew and was unaware of how her name would have been placed on the LEAD report as an additional teacher. Mr. White advised that he too had a full class schedule in 2014-2015. He stated that even though he was in the middle school of Shawnee and sometimes exchanged ideas on teaching with Ms. Loew, he did not co-teach with her in any of her classes. Mr. White was also unaware of how his name came to be listed as an additional teacher for Ms. Loew's classes. Mr. White and Ms. Feria confirmed that Ms. Loew taught the four Spanish classes and the four arts and humanities classes to which she was assigned without the assistance of Mr. White or Ms. Feria.

Principal Barber advised that he had no recollection of any problems arising from the LEAD report during the 2014-2015 school year. Additionally, he advised that he was not aware of any additional teachers being assigned with Ms. Loew during that school year.

The investigation further revealed that the individual responsible for compiling the JCPS LEAD report for the 2014-2015 school year is no longer with the district. Venita Benboe, Shawnee's current principal, advised OEA that the district has a person who works with the school on the LEAD report. Principal Benboe advised that the school does not submit anything to the central office for the LEAD report. Teacher assignments are entered into Infinite Campus and subsequently uploaded to the LEAD report. If there is an error in the LEAD report, central office staff contact counselors at Shawnee and advise them as to what error has occurred. The counselors work with the central office to correct the error.

This process was confirmed by Geneva Stark, the current coordinator for the LEAD report. Additionally, Ms. Stark advised that once an error is corrected, a new LEAD report is generated and the error no longer appears on the report. There were no records available from JCPS which would show an error in the LEAD report for Shawnee in the 2014-2015 school year. In fact, the assigning of an additional teacher to Ms. Loew's classes may have occurred prior to the LEAD report being generated. If that was the case, then the report would not have shown an error at all.

Superintendent Hargens advised that she had no knowledge of this situation as she does not deal directly with the LEAD report.

CONCLUSIONS

The investigation found insufficient evidence that JCPS willfully falsified information submitted in the 2014-2015 LEAD report submitted to the EPSB. However, the investigation concludes that Superintendent Hargens and her designees violated KRS 161.020 by allowing Ms. Loew to perform the duties of a certified teacher at Shawnee when Ms. Loew did not possess the appropriate teaching certificate to perform those duties.

KRS 161.020 states in pertinent part:

(1)(a) No person shall be eligible to hold the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued, or receive salary for services rendered in the position, unless he or she holds a certificate of legal qualifications for the position, issued by the Education Professional Standards Board....

(2) No person shall enter upon the duties of a position requiring certification qualifications until his or her certificate has been filed or credentials registered with the local district employer.

Ms. Loew did not possess a teaching certificate; however, her application was submitted as a qualified candidate for a teaching vacancy at Shawnee. Superintendent Hargens and/or her designees failed to insure that a valid teaching certificate for Ms. Loew was on file with the district.

Additionally, the investigation concludes that Superintendent Hargens and/or her designees violated KRS 161.180, which requires teachers and school administrators to supervise students on school premises, on the way to and from school, and on school sponsored trips and activities and KRS 161.044, which allows instructional aides to work under the direct supervision of certified staff. In this case, Ms. Loew was allowed to supervise and instruct students at Shawnee despite not possessing a teaching certificate and when she did so, she was not under the direct supervision of certified staff.

In the response to the Preliminary Investigative Report, former Superintendent Hargens advised:

When the personnel notification report comes to the Superintendent and then to the Board that a teacher has been hired, both the Superintendent and the Board believe that the correct certification is on file. There was no indication of, or any knowledge of anything to the contrary. I assure you that it would have been dealt with immediately. It is accurate to state that, per your investigation, that Ms. Loew performed the duties of a certified teacher at Shawnee and did not possess the appropriate certificate to perform those duties. You presented evidence of that. It is not clear who, if anyone, had knowledge of that fact and still "allowed" her to do so. I did not.

KRS 160.370 provides, in pertinent part,

The superintendent shall be the executive agent of the board that appoints him.... As executive officer of the board, the superintendent shall see that the laws relating to the schools, the bylaws, rules, and regulations of the Kentucky Board of Education, and the regulations and policies of the district board of education are carried into effect.

Superintendent Hargens may not have had direct knowledge that Ms. Loew was not certified to teach at Shawnee High School; however, as the executive officer of the board, under KRS 160.370, she was responsible for ensuring that the school laws were followed in the district.

ALLEGATION # 2: Superintendent Donna Hargens permits the assignment of classified staff to supervise and instruct students during the instructional day without the presence of certified staff

FINDINGS

JCPS has a job classification in its table of organization known as an Instructor III. The job description of an Instructor III lists the scope and qualifications of the position as follows:

Scope of Responsibilities

Assists in the implementation of education programs by providing comprehensive assessments, evaluations, and instruction to meet the needs of parents and children; including home visitation and instruction.

Minimum Qualifications

- 1. Bachelor's Degree*
- 2. Three (3) years successful teaching experience*
- 3. Experience in working with children and parents with special needs, multi-cultural and multi-ethnic backgrounds*

The Instructor III position is a classified position with JCPS and as such does not require a teaching certificate. However, the investigation revealed, through interviews and review of schedules and correspondence, that individuals employed in the Instructor III job classification are routinely assigned to supervise and teach students during the instructional day without the presence of a certified teacher in the classroom. Instructor III personnel at Noe Middle School and Johnson Middle School are assigned to in-school suspension classrooms, computer lab classes, proficiency at work classes, life skills classes, leadership classes, and graphic arts classes.

Additionally, Instructor III personnel are sometimes used as substitute teachers in the schools in which they are employed. The education requirement for the position qualifies an Instructor III to be a substitute teacher. Interviewees advised that on days they operated as a substitute teacher, they were still compensated at the Instructor III level.

JCPS Director of Human Resources Tiffeny Armour advised that Instructor III staff have a high level of education and are able to have a classroom of students. They have same credentials as a substitute teacher. The teacher of record is not in

the classroom with them. In these situations, there is a certified teacher assigned as teacher of record for the students. The Instructor III may have a web class or in-school alternative program room. According to Ms. Armour, the Instructor III does not create lesson plans or give grades. Interviewees provided information contradicting to this statement. Several interviewees advised that they do, in fact, create lesson plans and give grades. Several advised that they access Infinite Campus (IC) and enter their students' grades utilizing the teacher of record's IC code, and that it has always been this way. Only Instructor III personnel and substitute teachers teach without a certificate. Ms. Armour advised that the use of Instructor III personnel as teachers unsupervised by certified staff is a longstanding practice in the district. She advised that when she became a principal in 2004, the Instructor III staff were utilized in this same manner. Superintendent Hargens confirmed that the Instructor III position was in use when she arrived in the district. Neither Superintendent Hargens nor Ms. Armour were aware of any waivers obtained from the EPSB permitting Instructor III personnel to provide instruction outside of the supervision of certified teachers.

Ms. Armour advised that she sent a memorandum in February 2016 outlining the criteria for the use of non-certified staff. She further advised that she copied a memo sent by the Human Resources Department in November 2011. Both the November 2011 and the February 2016 memoranda contained the following:

1. Non-certified staff cannot be the "teacher of record" for the time period they assist students. There must be a "teacher of record" for the time students are involved in instructional activities and the "teacher of record" must hold an appropriate teaching certificate.
2. Non-certified staff cannot issue grades. Any grades that are issued to students must be issued by a properly certified teacher.
3. Non-certified staff cannot be responsible for lesson plans. Lesson plans must be the responsibility of a properly certified teacher.
4. Any instructional assistance being provided by non-certified staff must be under the supervision of a properly certified teacher. The assigned teacher should be in close proximity to the classroom where the Instructor is located, and should truly oversee, and be checking in on the daily operations of that classroom.

The end result of these memoranda is the approval of non-certified personnel working as if they are appropriately certified teachers in the Jefferson County School District.

CONCLUSION

The investigation concludes that Superintendent Hargens and her designees violated KRS 161.020 by permitting noncertified staff to supervise and instruct students in the district during the instructional day.

KRS 161.020 provides, in pertinent part,

(1)(a) No person shall be eligible to hold the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued, or receive salary for services rendered in the position, unless he or she holds a certificate of legal qualifications for the position, issued by the Education Professional Standards Board....

(2) No person shall enter upon the duties of a position requiring certification qualifications until his or her certificate has been filed or credentials registered with the local district employer.

Superintendent Hargens failed to ensure appropriate certifications had been filed or registered with the district.

Additionally, Superintendent Hargens violated KRS 161.180, which requires teachers and school administrators to supervise students on school premises, on the way to and from school, and on school sponsored trips and activities.

KRS 161.044 allows instructional aides to work under the direct supervision of certified staff. To understand when the use of an aide is appropriate, start with KRS 161.180. Section 2 allows aides in "*supervisory capacities, such as playground, supervision, hallway supervision, lunch room and cafeteria supervision...and other like duties.*" The list of appropriate uses of aides in this statute involves only non-instructional time. There is no mention within this statute of an aide providing instruction.

KRS 161.010(5) provides an additional list of duties that include "*clerical, tutoring, leading pupils between activities and assisting with classroom instruction, as directed by the teacher, and aiding the school librarian.*" Similar to KRS 161.180, these all refer to assisting and aiding the certified staff person who is in charge of the classroom and instructional activities. Although this statute mentions tutoring activity, the implication is that such tutoring would consist of pull-out or one-on-one type assistance while the teacher continues to instruct the other students.

KRS 161.044 permits, within the administrative regulations established by the Kentucky Board of Education, a local district to employ teachers' aides in supplementary instructional and noninstructional activities with pupils. While engaged in an assignment, as authorized under the administrative regulations and as directed by the professional administrative and teaching staff, these personnel have the same legal status and protection as a certified teacher in the performance of the same or similar duties.

OEA found no regulations that pertain to aides providing instructional duties in the classroom. A 1973 Opinion of the Attorney General (OAG) is relevant and, while parts of the statute have changed, the reference is to the use of a para-professional in the classroom: "...such regulations have not been prepared and adopted, it would appear that a teacher's aide cannot conduct a class even with a teacher present." OAG 73-206. Two older OAG's are also relevant. OAG 63-269 states "A student teacher may not legally take charge of a classroom in the absence of the regular teacher." OAG 63-237 states "Although conservation officers cannot act as teachers, they may act as guest lecturers...if a certified teacher remains in the classroom and maintains control of the class." Both of these support the position that at no time may a noncertified individual supervise or instruct a class of students.

KRS 161.020 requires that all persons who hold the position of teacher must hold the appropriate certificate, which is enforced by the EPSB. This statute supports the conclusion that Instructor III staff are not permitted to provide classroom instruction during instructional hours.

OEA has consistently concluded that teacher aides may assist teachers in the supervision of students, assuming there is a teacher responsible for the students

at all times. The few duties set out in statute indicate general supervision duties, not instructional duties. In the current matter, the aide is given complete supervisory control over the students during the proficiency at work, graphic arts, leadership, in-school suspension, and computer lab classes, with no involvement of the certified staff.

In the response to the Preliminary Investigative Report, former Superintendent Hargens states:

The allegation is false. I did not "permit" classified staff to supervise and instruct students during the instructional day without the presence of certified staff. As the Superintendent, I do not deal with schedules or location assignments of personnel. I have no knowledge of or involvement with personnel assignments/scheduling in general or specifically at Noe or Johnson Middle School.

As with Allegation #1, KRS 160.370 is controlling. Superintendent Hargens may not have had direct knowledge that non certified staff were being permitted to supervise and instruct students during the instructional day; however, as the executive officer of the board, she was legally responsible for ensuring that the school laws were followed in the district.

ALLEGATION #3: Superintendent Donna Hargens violated the provisions of the gifted and talented program required by KRS 157.196 and 704 KAR 3:285.

FINDINGS

The complaint alleged that a student is selected for the primary talent pool (PTP) or as possessing the ability to perform at an exceptionally high level in primary school years (P1-P4; kindergarten through third grade) or as being eligible for the gifted and talented (G&T) program. It was alleged that JCPS failed to provide a gifted student service plan (GSSP) in a timely manner as required by KRS 157.196. Additionally, it was alleged that the district failed to provide timely progress reports as required. The result of these alleged failures has caused a deficit in the education of JCPS gifted students.

LaTonya Frazier is the G&T program coordinator for JCPS. She advised that JCPS has 5000 kids in the PTP. Ms. Frazier advised that, for students in the PTP, there is no requirement that a GSSP be developed and no requirement that parents give permission for their student to be included in the PTP. Students identified for the PTP are provided differentiated services matched to their needs, interests, and abilities. Ms. Frazier provides guidance to schools on these services.

G&T students are formally identified beginning in the fourth grade. Participation in the PTP does not guarantee identification as a G&T student. Ms. Frazier advised that once a student is identified as G&T, it is a requirement that the students' parents give written consent for participation in the program. If consent is given, then the school advises the parents on the expectations. A student is to have at least two service options; JCPS pays for any expenses associated with the service options. Additionally, the school provides bi-annual reports on the student's progress. The service options should be included in the student's GSSP. A G&T student should have a GSSP throughout the time they are in the program. Ms. Frazier tries to ensure that parents with students in the program receive the progress reports. She does so by sending the report forms with each child's name on them to the individual schools. The school sends them to the parent.

If a parent complains they didn't receive information, Ms. Frazier contacts the school to see what she can do to help. If a parent is dissatisfied with how the school provides G&T services, Ms. Frazier advises that there are a number of options available to the parent. JCPS requires that parents start by speaking with their child's teacher and then contact the school principal if the parents are not satisfied. A parent may request that these be face-to-face meetings. Parents who are still not satisfied may contact an assistant superintendent to follow up. If a parent is still not satisfied, there is a grievance process. The process is available on the JCPS web site. Parents have to speak to the teacher and principal first before they come to Ms. Frazier.

Ms. Frazier advised that JCPS is working with the Kentucky Department of Education (KDE) to improve the G&T program, such as by expediting the delivery of GSSP information to parents. KDE confirmed that they have been working with JCPS to improve the program but did not find that JCPS has violated the statutory or regulatory requirements for the G&T program.

Ms. Frazier advised JCPS received a \$151,000 grant from KDE for the G&T program – 75% of the grant funding is required to be used for G&T teacher salaries. Ms. Frazier distributes the remaining funds to JCPS schools based on grant applications submitted by individual schools. Ms. Frazier further advised that the JCPS Board of Education provides \$60,000 of dedicated funds to be used for appeals of students who believe they should be in the program and to find underrepresented students who qualify and help them get into the program. Finally, for the 2016-2017 school year, the JCPS Board allocated a one-time amount of \$38,000 to be used for a summer G&T program.

Superintendent Hargens advised that JCPS receives a grant from KDE for the G&T program. For the 2016-2017 school year JCPS received a \$151,000 grant from KDE. The grant must be used to support the G&T program. Additionally, if JCPS allocates dedicated funds to the G&T program, those dedicated funds must be used within the program. The district provides guidance to support the schools in providing G&T services to their identified students.

CONCLUSIONS

The investigation finds no violation by Superintendent Hargens regarding the G&T program. KRS 157.200(1)(n) defines a gifted and talented student as “a pupil identified as possessing demonstrated or potential ability to perform at an exceptionally high level in general intellectual aptitude, specific academic aptitude, creative or divergent thinking, psychosocial or leadership skills, or in the visual or performing arts.”

The G&T program is governed by 704 KAR 3:285 which defines the program's goals as helping students to excel by providing instruction tailored to their particular needs. Districts are allowed flexibility in the provision of G&T services. However, the regulation requires districts to provide equal access to students from different ethnic, racial, and economic groups; conduct continuous screening for G&T students; to have a committee for the determination of eligibility and services; to use at least three assessment options to identify students; provide multiple service delivery options in every grade; to conduct annual program evaluations; and to ensure the proper qualifications of personnel working with G&T students. The regulation also requires that 75% of a district's gifted

education allocation be used to support direct instructional services provided by properly certified personnel and that the district designate a G&T coordinator.

The G&T regulation specifies different approaches to the selection and service of students in the primary grades (K-3) and the middle and upper grades (4-12). In grades K-3, students are selected informally, using a variety of measures, to be part of the primary talent pool (PTP). Students identified for the PTP stay in the program until the 3rd grade. The goal of the pool is to develop the talent of students who may have the ability to perform at high levels. Regulations emphasize that the PTP services be provided within the regular primary classroom, though other options are permitted.

Beginning in the 4th grade, students must be identified using formal measures specified in regulations. Identification measures vary according to different G&T categories. Students identified as G&T in general intellectual ability or for academic aptitude in specific subject areas are commonly identified by scoring in the top 4% of students on a norm-referenced achievement test in the 3rd grade. Service delivery options for all students include collaborative teaching, travel study options, independent study, extracurricular activities such as academic competitions, pull-out classrooms, self-contained classrooms or schools, and advanced placement or other honors courses.

Funds for G&T programs in Kentucky are distributed to local districts as grants based on the districts' total populations. Unlike funding for special education services, funding for G&T programs are not linked to the number of students identified for services.

JCPS utilized the funds received from KDE and the funds allocated by the JCPS Board of Education within the requirements of 704 KAR 3:285.

ALLEGATION #4: Superintendent Donna Hargens attempted to impose a comprehensive sex education curriculum without school-based decision making (SBDM) council input or approval.

FINDINGS

On November 30, 2016, JCPS held a mandatory Sexual Health Education Professional Development program for all secondary health teachers in the district. During the program, several presentations were made. KDE representatives spoke about the Kentucky Standards for Sexual Education, JCPS SBDM Coordinator Shawna Stenton addressed curriculum selection by the SBDM, and JCPS Practical Living Specialist Donna Benton made a couple of presentations, as did several other JCPS representatives.

Superintendent Hargens advised that there were concerns about access to the sex education standards, and there was variability in teaching sexual education from school to school in the district. Superintendent Hargens met with health teachers who agreed that it was important to teach standards. She advised that teachers had felt that they were on their own. Superintendent Hargens wanted to give the teachers guidance on this matter which is why the November 30, 2016 professional development program was developed. She advised that there was no mandate for councils to adopt comprehensive sex education. The program stressed the standards.

Ms. Benton advised that Superintendent Hargens wanted to give teachers a framework which stressed the district's Vision 20/20 Access. Ms. Benton advised that when it came to sexual education, some schools decided not to teach anything; some went to very conservative programs; and some did standards based curriculum. So it was decided that there was a need to give schools some support and training. The district paid for substitute teachers and did training. Ms. Benton advised that there were some wonderful speakers at the program. It was about inclusion of everyone, including LGBTQ.

Ms. Benton advised that there was no effort to impose a particular sexual education curriculum on the schools. She stated that the district knows that it is not up to them to choose a curriculum. In fact, SBDM Coordinator Shawna Stenton made a presentation addressing this concern. Ms. Stenton, according to Ms. Benton, was very clear with the group that curriculum and instructional material was a decision to be made by the school councils.

Ms. Stenton confirmed that she was there to clarify the council's role in determining curriculum at the school level. She advised the attendees at the program that the sexual education standards are not a matter subject to SBDM council determination but curriculum and instructional material matters are within the authority of the councils. Ms. Stenton advised that there was no pressure placed on the teachers to convince the school councils to adopt any particular sexual education curriculum. Ms. Stenton stated that she was there to provide information and not to push an agenda.

As part of the program on November 30, 2016, attendees were to examine five different sexual education curricula. The attendees were to review and evaluate the curricula and make notes regarding each of them with an eye toward choosing one to present for council approval. Those notes were then collected and held to be given to school principals at a separate December 14, 2016 meeting. Ms. Benton advised that not many principals attended the December meeting; however, she gave those in attendance the information and the envelopes collected from the November 30, 2016 program. Ms. Benton stated that she advised the principals that there was no obligation to change anything at their school. They just had to make sure the sexual education curriculum was standards based. Ms. Benton stated that she asked them to feel free to ask her any questions but no one had questions.

According to Ms. Benton, some teachers were afraid that the district was doing a mandate to teach comprehensive sex education. She further advised that no one from the district was pressuring teachers or principals to select a particular curriculum.

Some of the teachers interviewed by OEA did believe that the district was nudging them toward a particular curriculum, which was presented at the professional development program. These teachers believed that they were being asked to make an effort to have the school councils select a particular curriculum. Some of the teachers interviewed did not feel the district was trying to convince them to work toward getting the SBDM councils at their schools to select a particular curriculum. OEA did not interview all teachers in attendance at the November 30, 2016 professional development meeting. Principals interviewed by OEA staff advised that they did not feel any pressure from the

December 14, 2016 meeting. None of the teachers or principals interviewed presented the information to the school councils.

It should be noted that, since OEA's onsite investigation of this allegation, the district held another mandatory professional development program for all secondary health teachers on May 2, 2017. The subject matter of the program was the same as it was on November 30, 2016.

CONCLUSIONS

KRS 160.345(2)(i) provides that school councils "shall adopt a policy to be implemented by the principal in the following additional areas: 1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under KRS 158.6453(19)."

The evidence obtained relative to the above allegation is insufficient to allow OEA to conclude with certainty that a violation of KRS 160.345(2)(i)1 has occurred. An equal number of teachers who spoke with OEA stated that they felt pressure as said they did not feel pressure to have a particular curriculum adopted at their schools. None of the principals interviewed felt that they were compelled by the district to adopt a particular sexual education curriculum for their schools.

At the professional development program of November 30, 2016, five separate curricula were available for review. Participants were asked to review and make notes of which ones they felt would be appropriate for possible adoption by their school's council. The notes of the participants were sealed and provided directly to the school principal. The investigation did not produce evidence that district personnel endorsed any particular curriculum for use in the schools of Jefferson County.

RESOLUTIONS

Allegation #1 and #2: OEA is aware that Donna Hargens is no longer the superintendent of the Jefferson County School District. The Jefferson County School District has a long history of utilizing non-certified staff to instruct and supervise students during the instructional day. This practice is systemic within the schools of the district. This practice was in existence prior to and at the time

Superintendent Hargens came to the district. Therefore, OEA believes that a broad-based training is needed within the district to resolve this issue. Thus, Interim Superintendent Marty Polio, all assistant superintendents, all human resource personnel, and all school principals shall participate in three hours of training from an EPSB approved trainer on the subject of "Complying with KRS 161.020, KRS 161.044, and KRS 161.180." Proof of completion of this training shall be provided to OEA by October 15, 2017.

Acting Superintendent Pollio, in his response, agrees to obtain the broad-based training outlined in this resolution and to utilize classified instructors within the bounds of the school law.

Allegation #3: No resolution is necessary as no evidence of violation of law or policy was found. OEA does, however, encourage JCPS to continue to work with KDE to enhance services for its G&T student population.

Allegation #4: No resolution is necessary as no evidence of violation of law or policy was found. OEA exhorts JCPS administrative personnel to continue their vigilance regarding the authority of SBDM councils in school governance.