

SB 5 (2023) Implementation Timeline

[SB 5 \(2023\)](#) creates a new section of KRS Chapter 158 to define "harmful to minors;" requires local boards of education to adopt a complaint resolution policy to address parent complaints about materials that are harmful to minors; requires the school to ensure that a student whose parent has filed a complaint does not have access to the material; and requires the Kentucky Department of Education (KDE) to establish a model complaint resolution policy.

As used in Section 1, "harmful to minors" means materials, programs or events that:

- Contain the exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area, or buttocks or the female breast, or visual depictions of sexual acts or simulations of sexual acts, or explicit written descriptions of sexual acts;
- Taken as a whole, appeal to the prurient interest in sex; or
- Is patently offensive to prevailing standards regarding what is suitable for minors.

Local Board of Education Implementation Timeline

Establishment of local board complaint resolution policy

No later than July 1, 2023, each local school board shall:

- Adopt a **complaint resolution policy** for its local schools to be used to address complaints submitted **by parents or guardians** alleging that material, a program or an event that is harmful to minors has been provided or is currently available to a student enrolled in the local school district **who is the child of the parent or guardian**.
 - This policy is specifically designed to address complaints submitted by parents or guardians regarding materials, programs or events deemed as "harmful" per Section 1 provided or made available to their child.

Principal to oversee school-based complaint resolution process

The complaint resolution process shall require that:

- Complaints be submitted in writing to the **principal** of the school where the student is enrolled;
- Complaints provide the name of the complainant, a reasonably detailed description of the material, program or event that is alleged to be harmful to minors, and how the material, program or event is believed to be harmful to minors;
- **Within seven (7) business days of receiving a written complaint**, the school **principal** shall review the complaint and take reasonable steps to **investigate the allegations** in the

complaint, including but not limited to reviewing the material, program or event that is alleged to be harmful to minors.

- The school principal shall determine whether the material, program or event that is the subject of the complaint is harmful to minors;
 - The school principal shall determine whether student access to material that is the subject of the complaint shall remain, be restricted or be removed and
 - The school principal shall determine whether a program or event that is the subject of the complaint shall be eligible for future participation by students in the school.
- **Within ten (10) business days of receiving the complaint**, unless another schedule is mutually agreed to by the parent or guardian and the school principal, the school principal shall **confer with the parent or guardian** and inform him or her whether the material, program, or event that is the subject of the complaint was determined to be harmful to minors and what the resolution will be.

Appeals process subject to local board of education

- **Appeals of the school principal's determination** shall:
 - Be subject to full administrative and substantive review by the local board of education and shall not be delegated;
 - Include an opportunity for the parent or guardian to provide input during public comment at a local board of education meeting;
 - Be completed **within thirty (30) calendar days of receiving the written appeal** unless another time frame is mutually agreed upon by the parent or guardian and the local board of education; and
 - Be discussed and voted on during a meeting of the local board of education subject to the open records and open meeting requirements.
- The board's final disposition of the appeal shall be made in writing and shall state:
 - Whether the material, program or event was determined to be harmful to minors; and
 - Whether student access to the material **will remain, be restricted or be removed**; and
 - Whether the program or event shall be eligible for future participation by students in the school;
- **Within fifteen (15) business days from the date of a final disposition**, the title of the material or a description of the program or event submitted for appeal, whether the material, program or event was determined to be harmful to minors, whether student access to the material will remain, be restricted or be removed or whether the program

or event shall be eligible for future participation by students in the school, and the vote cast by each individual board member shall:

- Be published on the **website** of the local board of education where it shall remain available for review; and
- Be published in the **newspaper** with the largest circulation in the county.

Parent or guardian written request for alternative following final disposition

- A parent or guardian may request in writing to the school, after final disposition is determined by the board, that the school ensure his or her student does not have access to the material, program or event that the parent or guardian believes to be harmful to minors but was allowed to remain or be eligible for future participation.
 - If the material, program or event remains in place or is eligible for future participation, the parent or guardian may request in writing that an alternative be provided for the child of the parent or guardian.
- The school shall ensure that the student whose parent or guardian has made a request does not have access to the material or is not allowed to participate in the program or event that the parent or guardian believes to be harmful to minors.
- A parent or guardian not having filed the appeal also may request in writing access to the appealed materials, programs or events for review and shall abide by the school's and district's policies and procedures when requesting and reviewing such information.