



1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (Amended After Comments)

5 703 KAR 5:280. School improvement procedures.

6 RELATES TO: KRS 158.6453, 158.6455, 158.782, 160.346, 20 U.S.C. 6301

7 STATUTORY AUTHORITY: KRS 156.029(7), 156.070(5), 158.6453, 158.6455, 160.346, 20

8 U.S.C. 6301

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.029(7) requires the Kentucky

10 Board of Education (KBE) to adopt policies and administrative regulations that shall govern the

11 Kentucky Department of Education (department) in planning and operating programs within its

12 jurisdiction. KRS 156.070(5) requires the KBE, upon the recommendation of the Commissioner

13 of Education, to establish policy or act on all programs, services, and other matters that are

14 within the administrative responsibility of the department. KRS 158.6453(3)(a) requires the KBE

15 to create an assessment system that measures achievement of the state learning goals, ensures

16 compliance with Title I of the federal Elementary and Secondary Education Act of 1965 (ESEA),

17 20 U.S.C. sec. 6301, et seq., as amended by the Every Student Succeeds Act (2015) or its

18 successor, and ensures school accountability. KRS 158.6455 requires the KBE to create an

19 accountability system to classify schools and LEAs, and to establish appropriate consequences

20 for schools failing to meet accountability measures. KRS 158.782 requires the KBE to

21 promulgate administrative regulations establishing the process for monitoring and periodic

1 review of schools' turnaround efforts for schools identified for comprehensive support and
2 improvement pursuant to KRS 160.346. KRS 160.346 establishes the process for the required
3 audit and turnaround efforts for schools identified for comprehensive support and improvement.
4 Additionally, KRS 160.346 requires the KBE to create state-wide exit criteria for identified
5 schools, additional action to support schools continuously failing to meet improvement goals,
6 and additional support for LEAs with a significant number of schools identified for
7 comprehensive and targeted support and improvement. Section 1111(c) of Title I of the
8 Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds
9 Act, 20 U.S.C. 6311(c) and (d), requires the KBE to identify the state's lowest achieving schools
10 as schools identified for comprehensive support and improvement and for those schools to
11 follow the requirements of 20 U.S.C. 6311(c) and (d) regarding school improvement. This
12 administrative regulation establishes the process and procedures for school improvement efforts.
13 Section 1. Definitions. (1) "Additional Targeted Support and Improvement" means the process
14 for schools identified pursuant to KRS 160.346(2)(b). [~~"Adequate performance progress" means~~
15 ~~meeting the exit criteria pursuant to KRS 160.346.~~]

16 (2) "Advisory leadership team" means the team established pursuant to KRS 160.346(7)(g) and
17 Section 8 of this administration regulation.

18 (3) "Annual improvement" means a school reaching annual goals, established by the department,
19 in the areas identified for comprehensive support and improvement.

20 (4) "Audit" means the process established in KRS 160.346(5) and (6).

21 (5) "Audit team" means the team selected by the LEA, pursuant to KRS 160.346(5), to complete
22 a school or district audit.

23 (6) "Charter school" means a "public charter school" as defined in KRS 160.1590(12).

1 (7) "Charter school board of directors" or "governing board" means charter school board of
2 directors as defined in KRS 160.1590(6).

3 (8) "Comprehensive Support and Improvement" means the process for schools identified
4 pursuant to KRS 160.346(3).

5 (9) "District" or "school district" means the local school district governed by a local board of
6 education.

7 (10) "District audit" means an audit that:

8 (a) Reviews the functioning of the district and the district's ability to manage an intervention in a
9 school identified for comprehensive support and improvement; and

10 (b) Meets the requirements of Section 5 of this administrative regulation [~~KRS 160.346(6)~~].

11 (11) "Evidence based interventions" is defined in the Elementary and Secondary Education Act,
12 as reauthorized by the Every Student Succeeds Act (2015), 20 U.S.C.A. § 7801.

13 (12) "Local education agency" or "LEA" means a local school district as established in KRS
14 160.010 and KRS 160.020 or a charter school board of directors as established in KRS 160.1590.

15 (13) "Minority" is defined in KRS 160.345(1)(a).

16 (14) "School audit" means an audit that:

17 (a) Reviews the functioning of a school;

18 (b) Assesses principal capacity for leadership of school turnaround; and

19 (c) Meets the requirements of KRS 160.346(6).

20 (15) "School improvement assistance" means a program designed by the department to support
21 improved teaching and learning.

22 (16) "School improvement plan" means the plan created by schools identified for targeted
23 support and improvement or additional targeted support and improvement pursuant to KRS

1 160.346(4) and embedded in the comprehensive school improvement plan required pursuant to
2 703 KAR 5:225.

3 (17) "Targeted Support and Improvement" means the process for schools identified pursuant to
4 KRS 160.346(2)(a).

5 (18) "Turnaround plan" means the plan created pursuant to KRS 160.346(7)(h) [(1)(e)] and
6 embedded in the comprehensive school improvement plan required pursuant to 703 KAR 5:225.

7 (19) "Turnaround team" means the team selected pursuant to KRS 160.346(7)(a).

8 Section 2. Notification of Status for Comprehensive Support and Improvement. (1) Following
9 notification of a school's identification for comprehensive support and improvement, an LEA
10 shall, within thirty (30) days, [:

11 ~~(a)] declare its intent to either utilize the department for the audit team or another option~~
12 ~~pursuant to KRS 160.346(5).]; and~~

13 ~~(b) Declare its intent to either utilize the department for the turnaround team or another option~~
14 ~~pursuant to KRS 160.346(7).]~~

15 (2) If the LEA declares its intent to use any option other than the department for the audit team,
16 the LEA shall provide, to the Kentucky Department of Education, the following information:

17 (a) The name and address of each person included on the audit team;

18 (b) The role and responsibilities of each person included on the audit team;

19 (c) The occupation and any vendor affiliations of each person included on the audit team; and

20 (d) Each person or entity's documented expertise in diagnosing the causes of an organization's
21 low performance and providing advice and strategies resulting in effective turnaround leadership.

22 (3) If the LEA declares its intent to use any other option other than the department for the audit
23 team, the LEA shall ensure that all audit team members report potential conflicts of interest. The

1 LEA shall report these conflicts of interest to the department and provide information regarding
2 the LEA's work to remedy the conflicts of interest.

3 (4) Audit team members shall not be employed by or otherwise affiliated with the LEA or school
4 under review.

5 (5) ~~[If the LEA declares its intent to use any option other than the department for the turnaround~~
6 ~~team, the LEA shall provide the following information:~~

7 ~~(a) The name and address of each person or entity fulfilling the status of turnaround team;~~

8 ~~(b) The role and responsibilities of each person or entity fulfilling the status of turnaround team;~~

9 ~~and~~

10 ~~(c) The evidence-based interventions that shall be utilized by the person or entity fulfilling the~~
11 ~~status of turnaround team.~~

12 ~~(6) If the LEA utilize a private entity as the turnaround team for a school, the LEA shall submit~~
13 ~~to the department evidence of the private entity's documented success at turnaround diagnosis,~~
14 ~~training, and improved performance of organizations.~~

15 ~~(7)] Upon receipt of the notification and appropriate information from the LEA, the department,~~

16 within fifteen (15) days, shall review the proposals for non-department audit teams ~~[and~~
17 ~~turnaround teams]~~ and either accept or deny the proposal. Denied proposals shall be returned to
18 the LEA and the department shall advise the LEA to remedy the proposal.

19 ~~[(8)] (6)~~ The LEA shall provide the information required in this Section utilizing the "[LEA]
20 Notification of Non-Department Audit ~~[or Turnaround]~~ Team Form incorporated by reference in
21 this administrative regulation.

22 ~~[(9)] (7)~~ Non-department audit teams shall complete a Kentucky-specific induction training prior
23 to conducting an audit.

1 Section 3. Audit Team Membership. For audit teams directed by the department: (1) Members
2 shall be selected from qualified applicants by the department, and approved by the
3 Commissioner of Education, or his designee;

4 (2) Members shall complete department-provided or department-approved training in any areas
5 needed to effectively perform their duties;

6 (3) Members shall hold appropriate certification or qualifications for the position being
7 represented;

8 (4) The team shall not include any members currently employed by or otherwise affiliated with
9 the LEA or school under review;

10 (5) The team shall include the following representation:

11 (a) The chairperson, who shall be designated by the department or its designee, and shall be:

12 1. A certified administrator approved by the department to provide school improvement
13 assistance;

14 2. A certified administrator member of the review team; or

15 3. A similarly qualified professional approved by the department;

16 (b) An individual approved by the department to provide school improvement assistance;

17 (c) A teacher who is actively teaching or has taught within the last three (3) years;

18 (d) A principal who is currently serving or has served as a principal within the last three (3)
19 years;

20 (e) An LEA administrator who is currently serving or has served in an LEA administrative
21 position within the last three (3) years;

22 (f) A parent or legal guardian who has or has had a school-aged child; and

1 (g) A university representative who is currently serving or has served in that capacity within the
2 last three (3) years;

3 (6) The chair may serve in addition to the six (6) members outlined in subsection (5) of this
4 section, or may be selected from those six (6) members who also meet the qualifications of this
5 section.

6 Section 4. School Audit. (1) A school audit shall be scheduled within forty-five (45) days of a
7 school's identification for comprehensive support and improvement.

8 (2) The KBE recommends a school audit, in addition to the requirements established in KRS
9 160.346(6), consist of and incorporate into the audit process and report the following criteria:

10 (a) Analysis of state and local education data;

11 (b) An analysis and recommendation regarding the principal's capacity to lead turnaround in a
12 school identified for comprehensive support and improvement and whether the principal should
13 be replaced;

14 (c) Review of comprehensive school improvement plans and other planning documents;

15 (d) Interviews with students, parents, all school council members, if applicable, school and LEA
16 personnel, and community members;

17 (e) Direct observation;

18 (f) Administration of teacher and principal working conditions surveys and student satisfaction
19 surveys;

20 (g) Review of school council minutes and agendas, if applicable; and

21 (h) Other information deemed necessary by the Commissioner of Education, or his designee.

1 (3) Where the audit team is directed by the department, the recommendation of the principal's
2 ability to lead the intervention in the school, as required by KRS 160.346(6)(a)2, shall be based
3 upon an assessment of whether:

4 (a) The principal demonstrates maintenance and communication of a visionary purpose and
5 direction committed to high expectations for learning as well as shared values and beliefs about
6 teaching and learning;

7 (b) The principal leads and operates the school under a governance and leadership style that
8 promotes and supports student performance and system effectiveness;

9 (c) The principal establishes a data-driven system for curriculum, instructional design, and
10 delivery, ensuring both teacher effectiveness and student achievement;

11 (d) The principal ensures that systems are in place for accurate collection and use of data;

12 (e) The principal ensures that systems are in place to allocate human and fiscal resources to
13 support improvement and ensure success for all students; and

14 (f) The principal ensures that the school implements a comprehensive assessment system that
15 generates a range of data about student learning and system effectiveness and uses the results to
16 guide continuous improvement.

17 (4) An audit team not directed by the department may utilize the criteria established in
18 subsection (3) of this section for the recommendation of principal capacity, as required by KRS
19 160.346(6)(a)2. An audit team not directed by the department shall include a recommendation as
20 to the principal's capacity to serve as a leader in school intervention and turnaround at a school
21 identified for comprehensive support and improvement. If that audit team chooses not to use the
22 criteria established in subsection (3) of this Section, it shall provide notification to the

1 department as well as the framework to be used in the analysis of principal capacity and submit
2 the criteria that shall be utilized to the department for approval.

3 (5) Upon identification as a school in need of comprehensive support and improvement, the
4 authority of the school council shall be suspended.

5 (6) Pursuant to KRS 160.346, the authority of the school council may be restored if the school is
6 not classified under comprehensive support and improvement status for two (2) consecutive
7 years.

8 (7) Charter schools shall be subject to a school audit that shall include an addendum providing a
9 determination regarding the governing board's capacity to provide support for turnaround. Each
10 addendum shall include:

11 (a) Analysis of state and local education data;

12 (b) A review of the governing board's level of functioning and recommendation to the
13 Commissioner of Education as to whether the governing board has the capacity to manage the
14 intervention in the charter school;

15 (c) Interviews with governing board members, students, parents, school personnel, authorizer,
16 and community members.

17 (d) Direct observations;

18 (e) Administration of teacher and principal working conditions surveys and student satisfaction
19 surveys;

20 (f) Review of charter school governing board minutes and agendas; and

21 (g) Other information deemed necessary by the Commissioner of Education, or his designee, to
22 assess the functionality of the governing board to support school improvement.

1 (8) If the audit team chooses not to use the criteria established in subsection (7) of this Section, it
2 shall provide notification to the department as well as the framework to be used in the analysis of
3 the governing board's capacity and submit the criteria that shall be utilized to the department for
4 approval.

5 Section 5. District Audit. (1) A district shall be subject to a district audit upon identification of a
6 school within the district for comprehensive support and improvement.

7 (2) Within forty-five (45) days of identification by the department of a district containing a
8 school identified for comprehensive support and improvement, an audit shall be scheduled to
9 review the functioning of the district's administration and its specific leadership capacity related
10 to each school identified for comprehensive support and improvement.

11 (3) Each district audit shall include:

12 (a) Analysis of state and local education data;

13 (b) A review of the district's level of functioning and recommendation to the Commissioner of
14 Education as to whether the district has the capacity to manage the intervention in each identified
15 school;

16 (c) Review of comprehensive district improvement plan and other planning documents;

17 (d) Interviews with local board members, students, parents, school and district personnel, and
18 community members;

19 (e) Direct observation;

20 (f) Administration of teacher and principal working conditions surveys and student satisfaction
21 surveys;

22 (g) Review of school board minutes and agendas; and

1 (h) Other information deemed necessary by the Commissioner of Education, or his designee, to
2 assess the functionality of the district to support school improvement.

3 (4) If the audit team is directed by the department, the determination of the district's level of
4 functioning and ability to manage the intervention in the school identified for comprehensive
5 support and improvement shall be based upon an assessment of capacity in the following areas:

6 (a) The district demonstrates maintenance and communication of a visionary purpose and
7 direction committed to high expectations for learning as well as shared values and beliefs about
8 teaching and learning;

9 (b) The district leads and operates under a governance and leadership style that promotes and
10 supports student performance and system effectiveness;

11 (c) The district establishes a data-driven system for curriculum, instructional design, and
12 delivery, ensuring both teacher effectiveness and student achievement;

13 (d) The district ensures that systems are in place for accurate collection and use of data;

14 (e) The district ensures that systems are in place to allocate human and fiscal resources to support
15 improvement and ensure success for all students; and

16 (f) The district ensures that a comprehensive assessment system, which generates a range of data
17 about student learning and system effectiveness and uses the results to guide continuous
18 improvement, is implemented.

19 (5) [~~Pursuant to KRS 160.346,~~] An audit team not directed by the department may utilize the
20 criteria established in subsection (4) [~~(3)~~] of this Section for recommendation to the
21 Commissioner of Education of the district's level of functioning and ability to manage the
22 intervention in the school identified for comprehensive support and improvement. An audit team
23 not directed by the department shall include a recommendation as to district functioning and

1 capacity to manage the interventions at a school identified for comprehensive support and
2 improvement. If that audit team chooses not to use the criteria established in subsection (4) [(3)]
3 of this Section, it shall provide notification to the department as well as the framework to be used
4 in the analysis of district functioning and capacity to manage the intervention in each identified
5 school to the department for approval.

6 (6) There shall be only one (1) district audit per district, per year, regardless of the number of
7 schools identified for comprehensive support and improvement located in the district.

8 Section 6. Notification to Schools and LEAs of Audit Findings. (1) Following any school audit,
9 the audit team shall submit all findings and the principal capacity recommendation to the
10 Commissioner of Education.

11 (2) Following any charter school or district audit, the district or governing board audit findings
12 and capacity recommendations shall be submitted to the Commissioner of Education who shall
13 then make a determination regarding the district or governing board's level of functioning and
14 whether the district or governing board has the capacity to manage the intervention in each
15 identified school.

16 (3) After completion of the initial school or district audits and within thirty (30) days of receiving
17 the audit findings, the Commissioner of Education shall notify in writing the school, district or
18 charter governing board, and the charter authorizer of the audit findings and recommendation
19 regarding principal or school leader's leadership capacity and authority and a determination
20 regarding district or governing board's leadership capacity and authority. The superintendent
21 shall then make any necessary determination regarding the principal or other certified staff
22 pursuant to KRS 160.346(7)(c)-(e).

1 Section 7. Turnaround Team and Development of Turnaround Plan for School Identified for
2 Comprehensive Support and Improvement. (1)[(a)] Within fifteen (15) [~~thirty (30)~~] days after the
3 Commissioner notifies the school, district or charter governing board, and the charter authorizer
4 of the audit findings, as described in Section 6(3) of this administrative regulation [~~are released~~],
5 an LEA shall declare its intent to either utilize the department for the turnaround team or another
6 option pursuant to KRS 160.346(7) and, if the LEA declares its intent to use any option other
7 than the department for the turnaround team, the LEA shall use the “Notification of Non-
8 Department Turnaround Team Form” to provide the following information to the department:
9 (a) The name and address of each person or entity fulfilling the status of turnaround team;
10 (b) The role and responsibilities of each person or entity fulfilling the status of turnaround team;
11 and
12 (c) The evidence-based interventions that shall be utilized by the person or entity fulfilling the
13 status of turnaround team. [~~Within thirty (30) days after the audit findings are released, the~~
14 ~~turnaround team shall develop a turnaround plan pursuant to KRS 160.346(7)(h). The turnaround~~
15 ~~team shall be selected pursuant to the requirements of KRS 160.346(7)(a).~~

16 ~~(b)]~~ (2) If the LEA utilizes a private entity to serve as the turnaround team, pursuant to KRS
17 160.356(7)(a)(1), the LEA shall submit to the department evidence of the private entity’s
18 documented success at turnaround diagnosis, training, and improved performance of
19 organizations [~~ensure compliance with Section 2 of this administrative regulation~~] and provide
20 ongoing oversight of the private entity’s work, functioning, and accomplishments as the
21 turnaround team.

22 (3) [(e)] If the LEA utilizes the local staff and community partners to serve as the turnaround
23 team, pursuant to KRS 160.346(7)(a)(2), the LEA shall ensure the following:

1 1. Schools having eight (8) percent or more minority students enrolled, as determined by the
2 enrollment on the preceding October 1, shall have at least one (1) minority member serving on
3 the turnaround team; and

4 2. At least one (1) parent of a student in the identified school is selected as a member of the
5 turnaround team.

6 (4) Upon receipt of the notification and appropriate information from the LEA, the department
7 shall review within fifteen (15) days the proposals for non-department turnaround teams and
8 either accept or deny the proposal. Denied proposals shall be returned to the LEA and the
9 department shall advise the LEA to remedy the proposal.

10 (5) [(4)] If the LEA utilizes the department to serve as the turnaround team, the turnaround team
11 shall be comprised of team members selected and approved by the Commissioner of Education,
12 or his designee, to provide school improvement assistance.

13 (6) Within [thirty (30)] forty-five (45) days after the Commissioner notifies the school, district
14 or charter governing board, and the charter authorizer of the audit findings, as described in
15 Section 6(3) of this administrative regulation, the turnaround team shall develop a turnaround
16 plan pursuant to KRS 160.346(7)(h).

17 (7) [(2)] In addition to the requirements established in KRS 160.346(7)(h), the turnaround plan
18 shall be embedded in the comprehensive school improvement plan required pursuant to 703
19 KAR 5:225 and shall include:

20 (a) Evidence-based interventions to be utilized to increase student performance and address the
21 critical needs identified in the school audit;

22 (b) A comprehensive list of persons and entities involved in the turnaround efforts and the
23 specific roles each shall play in the school's turnaround; and

1 (c) A review of resource inequities that shall include an analysis of school level budgeting to
2 ensure resources are adequately channeled towards school improvement.

3 ~~(8) [(3)]~~ The ~~[turnaround team shall, no later than thirty (30) days after the turnaround team is on~~
4 ~~site, present the]~~ turnaround plan shall be approved by the superintendent and local board of
5 education, as required by KRS 160.346(7)(h), who shall [to the LEA, which shall give final
6 approval,] provide the necessary support and resources for the turnaround plan~~[,]~~ and submit the
7 turnaround plan to the Commissioner of Education for final approval.

8 ~~(9) [(4)]~~(a) Following receipt of the turnaround plan specified in subsection ~~(8) [(3)]~~ of this
9 section and before the beginning of the school year following the audit, the Commissioner of
10 Education, in consultation with the advisory leadership team, superintendent, and local board of
11 education, shall determine the sufficiency of the school's turnaround plan to meet the needs of
12 the school's turnaround effort.

13 (b) If the Commissioner of Education finds that the plan is not sufficient to meet the needs of the
14 school turnaround effort for a school identified for comprehensive support and improvement, the
15 department shall provide feedback detailing the deficiencies and advise the LEA and school to
16 make changes to the plan.

17 Section 8. Advisory Leadership Team. (1) The principal or charter school leader of a school
18 identified for comprehensive support and improvement shall provide, in a format acceptable to
19 the department, the names and addresses of advisory leadership team members appointed
20 pursuant to KRS 160.346(7)(g) to the department.

21 (2) The department shall maintain a database of all advisory leadership team members appointed
22 pursuant to KRS 160.346(7)(g).

1 (3) In establishing the advisory leadership team, the principal or charter school leader shall
2 ensure that schools having eight (8) percent or more minority students enrolled, as determined by
3 the enrollment on the preceding October 1, shall have at least one (1) minority member serving
4 on the advisory leadership team.

5 (4) [(2)] Meetings of the advisory leadership team shall be open to the [be] public.

6 (5) [(3)] Duties of the advisory leadership team shall include:

- 7 (a) Providing support for systems that seek to build capacity in school leadership;
- 8 (b) Promoting positive school climate and culture; and
- 9 (c) Supporting the continual use of data-driven decision-making to support school improvement.

10 Section 9. Monitoring and Periodic Review of Plan Implementation. (1) Pursuant to the
11 Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, 20
12 U.S.C.A. Section 6301, all schools identified for comprehensive support and improvement shall
13 be subject to monitoring and periodic review by the department.

14 (2) Monitoring shall include:

- 15 (a) Onsite support by department staff if the department is chosen by the LEA to serve as the
16 turnaround team pursuant to KRS 160.346 or if more rigorous intervention by the department is
17 warranted as established in Section 10 of this administrative regulation;
- 18 (b) Annual review of school and LEA state accountability data;
- 19 (c) Review of indicators of school quality; and
- 20 (d) Other measures deemed necessary by the department to ensure compliance with the Every
21 Student Succeeds Act, or its successor.

22 (3) Periodic review of the turnaround plan shall include:

- 23 (a) Periodic site visits;

1 (b) Direct observation; and

2 (c) Interviews with students, parents, all school council members, if applicable, school and LEA
3 personnel, and community members.

4 Section 10. More Rigorous Intervention. (1) Schools identified for comprehensive support and
5 improvement that do not exit that status after three (3) years shall be subject to intervention by
6 the department including but not limited to:

7 (a) A school audit conducted by the department;

8 (b) Onsite assistance by department staff; and

9 (c) Evaluation and modification of the school turnaround plan.

10 (2) Schools identified for comprehensive support and improvement that do not exit after three (3)
11 years shall be subject to an audit by the department every two (2) years, or as deemed necessary
12 by the Commissioner of Education.

13 (3) Schools identified for comprehensive support and improvement that do not make annual
14 improvement for two (2) consecutive years shall be subject to intervention by the department, as
15 established in subsections (1) and (2) of this Section, after the second year;

16 (4) Districts serving any number of schools identified for comprehensive support and
17 improvement that do not exit after three (3) years, or two (2) years as established in subsection
18 (2) of this Section, shall be subject to a district audit. Additional district audits for districts
19 serving schools identified for comprehensive support and improvement that do not exit that
20 status shall occur every two (2) years, or as deemed necessary by the Commissioner of
21 Education. No district, regardless of the number of schools identified for comprehensive support
22 and improvement that fail to exit that status, shall have more than one (1) district audit every two
23 (2) years.

1 Section 11. Targeted Support and Improvement and Additional Targeted Support and
2 Improvement. (1) Upon identification as a school for targeted support and improvement or
3 additional targeted support and improvement, the identified school shall comply with the
4 requirements of KRS 160.346(4). The school improvement plan shall be embedded in the
5 comprehensive school improvement plan required pursuant to 703 KAR 5:225.

6 (2) LEAs with a school [~~schools~~] identified for targeted support and improvement or additional
7 targeted support and improvement shall monitor and provide support to the school to ensure the
8 successful implementation of the school improvement plan.

9 Section 12. Significant Number of Schools. (1) In addition to providing notification to LEAs as
10 to the identification of schools for comprehensive support and improvement, additional targeted
11 support and improvement, or targeted support and improvement, the department shall notify
12 LEAs as to whether they shall be considered an LEA supporting a significant number of schools
13 identified for either comprehensive support and improvement or targeted support and
14 improvement, including additional targeted support and improvement.

15 (2) To determine whether an LEA meets this designation, the department shall calculate, based
16 on the total number of A1 schools, as defined in 703 KAR 5:240, in the LEA, the LEA's
17 percentage of schools identified for comprehensive support and improvement and the LEA's
18 percentage of schools identified for targeted support and improvement, including additional
19 targeted support and improvement. Any LEA containing two (2) or more schools identified for
20 comprehensive support and improvement or targeted support and improvement, including
21 additional targeted support and improvement, and whose percentage of identified schools
22 exceeds ten (10) percent of all schools within the district [~~for either comprehensive support and~~
23 ~~improvement or targeted support and improvement schools~~] shall be designated an LEA

1 supporting a significant number of schools identified for either comprehensive support and
2 improvement or targeted support and improvement.

3 Section 13. Technical Assistance for LEAs Supporting a Significant Number of Schools
4 Identified for Comprehensive Support and Improvement. (1) LEAs supporting a significant
5 number of schools identified for comprehensive support and improvement shall receive the
6 following technical assistance:

- 7 (a) A district audit, or school audit if a charter school, conducted by the department; and
- 8 (b) Onsite support from department staff.

9 (2) The district audit, or school audit if a charter school, completed by the department pursuant to
10 subsection (1)(a) of this Section shall take the place of any district or school audit conducted
11 under Sections 4 and 5 of this administrative regulation.

12 (3) Department staff shall:

13 (a) Coordinate with the LEA to ensure direct support of schools identified for comprehensive
14 support and improvement;

15 (b) Review, via the district or school audit, if a charter school, resources and allocations to
16 determine if they are being used effectively for school improvement;

17 (c) Work with the LEA to address any identified resource inequities that negatively impact
18 schools and students; and

19 (d) Work with the LEA to develop sustainable systems to support school improvement.

20 Section 14. Technical Assistance for LEAs Supporting a Significant Number of Schools
21 Identified for Targeted Support and Improvement. (1) LEAs supporting a significant number of
22 schools identified for targeted support and improvement, including additional targeted support
23 and improvement, shall receive the following technical assistance:

1 (a) Periodic site visits; and

2 (b) Onsite support by department staff.

3 (2) Department staff shall:

4 (a) Review LEA resources and allocations to determine if they are being used effectively for
5 school improvement;

6 (b) Provide technical assistance to the LEA regarding resource allocation to support school
7 improvement; and

8 (c) Connect LEAs with professional development opportunities to build capacity for school
9 improvement efforts.

10 Section 15. Exit Criteria. (1) A school identified for comprehensive support and improvement
11 pursuant to KRS 160.346(3)(a) or (c) shall exit that status if:

12 (a) It no longer meets the criteria for identification; and

13 (b) It demonstrates ~~[continued]~~ progress on the overall score, which encompasses all indicators
14 included in Kentucky's accountability system as established in 703 KAR 5:270, for the group or
15 groups that served as the basis for identification ~~[the data that were the basis for identification].~~

16 (2) Schools identified for comprehensive support and improvement pursuant to KRS
17 160.346(3)(b) shall exit that status if they no longer meet the criteria for identification.

18 (3) Schools identified for comprehensive support and improvement as a result of more than one
19 (1) criteria shall exit if all relevant exit criteria are met.

20 (4) [(3)] Schools identified for targeted support and improvement pursuant to KRS 160.346(2)(a)
21 shall exit that status if they no longer meet the criteria for identification ~~[the identified subgroup~~
22 ~~is no longer below the performance of all students in the bottom five (5) percent of Title I~~

1 schools or non-Title I schools within that range of Title I schools and demonstrates continued
2 progress on the data that served as the basis for identification].

3 (5) [(4)] A school [Schools] identified for additional targeted support and improvement pursuant
4 to KRS 160.346(2)(b) shall exit that status if the identified subgroup:

5 (a) Is no longer at or below the performance of all students in the bottom five (5) [ten-(10)]
6 percent of Title I schools or non-Title I schools within that range; and

7 (b) Demonstrates progress on the overall score, which encompasses all indicators included in
8 Kentucky's accountability system as established in 703 KAR 5:270. [LEAs may include
9 additional exit criteria at their discretion.]

10 (6) Schools identified for additional targeted support and improvement pursuant to KRS
11 160.346(2)(b) that do not exit that status within three (3) years shall be identified for
12 comprehensive support and improvement pursuant to KRS 160.346(3)(c).

13 Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

14 (a) "[LEA] Notification of Non-Department Audit [or Turnaround] Team Form," [;] August
15 2019; [February 2018, is incorporated by reference.]

16 (b) "Notification of Non-Department Turnaround Team Form," August 2019.

17 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
18 the Kentucky Department of Education, Office of Continuous Improvement and Support, 300
19 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30
20 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

12/9/19
(Date)

Wayne D. Lewis
Wayne D. Lewis
Commissioner of Education

12/4/19
(Date)

Hal Heiner
Hal Heiner, Chairperson
Kentucky Board of Education

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 703 KAR 5:280
Contact Person: Deanna Durrett, Deanna.durrett@education.ky.gov
Phone Number: 502-564-4474

(1) Provide a brief summary of:

(a) What this administrative regulation does: The Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds Act (ESSA) requires the Kentucky Department of Education (KDE) to adopt a system of accountability and support for low-achieving schools and districts. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of ESSA require KDE to identify schools for comprehensive support and improvement (CSI), and Section 1111(d)(2) requires KDE identify schools for targeted support and improvement (TSI). Additionally, KRS 160.346 requires the Kentucky Board of Education (KBE) to recommend principal capacity criteria to turnaround audit teams, establish statewide exit criteria for schools identified for CSI and TSI, and provide technical assistance to school districts with a significant number of TSI schools. This regulation establishes a system of support and ongoing accountability for CSI and TSI schools in compliance with ESSA and KRS 160.346.

(b) The necessity of this administrative regulation: This amended regulation is necessary because it establishes a system of support and ongoing accountability for CSI and TSI schools in compliance with ESSA and KRS 160.346. Amendments to 703 KAR 5:280, including incorporating new terminology and expectations for schools identified for Additional Targeted Support and Improvement (ATSI) as well as establishing the exit criteria for schools identified for TSI and ATSI, are necessary to align the regulation with proposed revisions to Kentucky's Consolidated State Plan and with KRS 160.346 as amended by Senate Bill (SB) 175 (2019).

(c) How this administrative regulation conforms to the content of the authorizing statute: This amended regulation conforms to federal and state statutes by establishing a system of support and ongoing accountability for CSI and TSI schools in compliance with ESSA and KRS 160.346. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of ESSA require KDE to identify schools for CSI, and Section 1111(d)(2) requires KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to recommend principal capacity criteria to turnaround audit teams, establish statewide exit criteria for schools identified for CSI and TSI, and provide technical assistance to school districts with a significant number of TSI schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amended regulation assists in the effective administration of federal and state statutes by establishing a system of support and ongoing accountability for CSI and TSI schools in compliance with ESSA and KRS 160.346. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of ESSA require KDE to identify schools for CSI, and Section 1111(d)(2) requires KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to recommend principal capacity criteria to turnaround audit teams, establish statewide exit criteria for schools identified for CSI and TSI, and provide technical assistance to school districts with a significant number of TSI schools.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Substantive amendments to 703 KAR 5:280 include distinguishing between schools identified for TSI and those identified for ATSI as well as establishing the exit criteria for schools identified for TSI and ATSI.

(b) The necessity of the amendment to this administrative regulation: Substantive amendments to 703 KAR 5:280 are necessary to align the regulation with proposed revisions to Kentucky's Consolidated State Plan and with KRS 160.346 as amended by SB 175 (2019).

(c) How the amendment conforms to the content of the authorizing statute: Substantive amendments to 703 KAR 5:280 conform to federal and state statutes by establishing a system of support and ongoing accountability for CSI and TSI schools in compliance with ESSA and KRS 160.346. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of ESSA require KDE to identify schools for CSI, and Section 1111(d)(2) requires KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to recommend principal capacity criteria to turnaround audit teams, establish statewide exit criteria for schools identified for CSI and TSI, and provide technical assistance to school districts with a significant number of TSI schools.

(d) How the amendment will assist in the effective administration of the statutes: Substantive amendments to 703 KAR 5:280 assist in the effective administration of federal and state statute by establishing a system of support and ongoing accountability for CSI and TSI schools in compliance with ESSA and KRS 160.346. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of ESSA require KDE to identify schools for CSI, and Section 1111(d)(2) requires KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to recommend principal capacity criteria to turnaround audit teams, establish statewide exit criteria for schools identified for CSI and TSI, and provide technical assistance to school districts with a significant number of TSI schools.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local education agencies (LEAs), the KBE, and KDE will be impacted by this regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: LEAs with schools identified for CSI to comply with the new turnaround team requirements in Section 7 of the amended regulation, including utilization of the "Notification of Non-Department Turnaround Team Form" that is incorporated by reference in Section 16 of the amended regulation. Also, LEAs with schools identified for TSI, including ATSI, will have to comply with Section 11 of the amended regulation, which relates to school improvement plans, and LEAs with schools identified for CSI and/or TSI, including ATSI, will have to meet the revised criteria established

in Section 15 of the amended regulation in order for the identified school(s) to exit that status. The KBE and KDE will implement the amended regulation, which clarifies the technical assistance that will be provided to districts serving a significant number of TSI and/or ATSI schools pursuant to KRS 160.346(11) as well as revises exit criteria for schools identified for CSI, TSI, and ATSI.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no anticipated budget impact related to the amendment of this administrative regulation for local education agencies, the KBE, or KDE.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amended regulation conforms to federal and state statutes, including ESSA and KRS 160.346, and conformance with authorizing statutes ensures clarity and legal compliance for the entities identified in question (3). Further, the system of accountability and support for low-achieving schools and districts provided in this regulation is aimed at creating sustainable turnaround and, ultimately, spurring school and district improvement across Kentucky.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: ESSA, which became effective in 2015, requires KDE to adopt a system of accountability and support for low-achieving schools and districts. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of ESSA require KDE to identify schools for CSI, and Section 1111(d)(2) requires KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to recommend principal capacity criteria to turnaround audit teams, establish statewide exit criteria for schools identified for CSI and TSI, and provide technical assistance to school districts with a significant number of TSI schools. Because the KBE and KDE have been complying with these federal and state statutes since their effective dates, there is no initial cost for monitoring and support.

(b) On a continuing basis: KDE incurs continuing costs as a result of the obligations in ESSA and KRS 160.346 to provide support, monitoring, and technical assistance to low-achieving schools and districts. Since the state legislature's decision not to fund the Commonwealth School Improvement Fund in the 2018-2020 biennial budget, federal funding has supported this work. Kentucky is expected to receive \$600,000 under Title I, Part A of ESSA to support school improvement in identified schools.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There are no additional anticipated costs for the implementation and enforcement of the amendment of this administrative regulation; however, KDE incurs continuing costs as a result of the obligations in ESSA and KRS 160.346 to provide support, monitoring, and technical assistance to low-achieving schools and districts. These costs are covered using federal funding, and Kentucky is expected to receive \$600,000 under Title I, Part A of ESSA to support school improvement in identified schools.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to

implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not anticipated to be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied because the amendment to this administrative regulation applies equally to all local education agencies.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 703 KAR 5:280
Contact Person: Deanna Durrett, Deanna.durrett@education.ky.gov
Phone Number: 502-564-4474

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Local education agencies, the Kentucky Board of Education (KBE), and the Kentucky Department of Education (KDE).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.029(7), 156.070(5), 158.6453, 158.6455, 160.346, 20 U.S.C. 6301.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There is no anticipated budget impact related to the amendment of this administrative regulation for any state or local government agency; however, KDE incurs continuing costs as a result of the obligations in ESSA and KRS 160.346 to provide support, monitoring, and technical assistance to low-achieving schools and districts. These costs are covered using federal funding, and Kentucky is expected to receive \$600,000 under Title I, Part of ESSA to support school improvement in identified schools.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?
N/A

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? N/A

(c) How much will it cost to administer this program for the first year? The Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds Act (ESSA), which became effective in 2015, requires KDE to adopt a system of accountability and support for low-achieving schools and districts. Specifically, Sections 1111(c)(4)(D) and 1111(d)(1) of ESSA require KDE to identify schools for CSI, and Section 1111(d)(2) requires KDE identify schools for TSI. Additionally, KRS 160.346 requires the KBE to recommend principal capacity criteria to turnaround audit teams, establish statewide exit criteria for schools identified for CSI and TSI, and provide technical assistance to school districts with a significant number of TSI schools. Because the KBE and KDE have been complying with these federal and state statutes since their effective dates, there is no initial cost for monitoring and support.

(d) How much will it cost to administer this program for subsequent years? KDE incurs continuing costs as a result of the obligations in ESSA and KRS 160.346 to provide support, monitoring, and technical assistance to low-achieving schools and districts. Since the state

legislature's decision not to fund the Commonwealth School Improvement Fund in the 2018-2020 biennial budget, federal funding has supported this work. Kentucky is expected to receive \$600,000 under Title I, Part A of ESSA to support school improvement in identified schools.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): NA

Other Explanation: N/A

Summary Page - Incorporation by Reference

703 KAR 5:280. School Improvement Procedures

The following documents are incorporated by reference:

(1) "Notification of Non-Department Audit Team Form," August 2019. This document incorporated by reference consists of two (2) pages and is the form a local education agency (LEA) shall use to notify the Kentucky Department of Education (department) of its intent to utilize the department or another option for the audit team.

(2) "Notification of Non-Department Turnaround Team Form," August 2019. This document incorporated by reference consists of two (2) pages and is the form an LEA shall use to notify the department of its intent to utilize the department or another option for the turnaround team.

STATEMENT OF CONSIDERATION
RELATING TO 703 KAR 5:280
School Improvement Procedures

Kentucky Board of Education
Department of Education
(Amended After Comments)

I. A public hearing was held on the above regulation on October 21, 2019 at 10:00 a.m. Eastern Time, in the State Board Room, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky.

II. The following individuals attended this public hearing or submitted written or verbal comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Eric Kennedy, Director of Advocacy	Kentucky School Boards Association
Kerri Schelling, Executive Director	Kentucky School Boards Association

III. The following people from the promulgating administrative body attended the public hearing and/or responded to written comments:

<u>Name and Title</u>
Dr. Kelly Foster, Associate Commissioner, Office of Continuous Improvement and Support
Todd G. Allen, Deputy General Counsel, Office of Legal Services
Whitney A. Crowe, Executive Advisor, Office of Continuous Improvement and Support

IV. Summary of Comments and Responses

(1) Subject Matter: Timeline for selecting a turnaround team.

(a) Comment: Commenter states, "The proposed 15-day deadline for a district to declare its intent to utilize either KDE or another option for the turnaround team will be insufficient to allow for the deliberation and local school stakeholder input necessary to inform this decision, which will be among the most critical decisions in the entire school improvement process. We submit that the deadline for this declaration of intent should be at least 30 days, if not longer."

(b) Response: The agency carefully considered this comment.

Section 7 of the amended regulation increases, not decreases, the timeline for a local board of education to select a turnaround team pursuant to KRS 160.346(7). As currently required

by Section 2 of 703 KAR 5:280, a local board of education shall notify the Kentucky Department of Education (department) of “its intent to either utilize the department for the turnaround team or another option pursuant to KRS 160.346(7)” within 30 days following notification of a school’s identification for comprehensive support and improvement (CSI). Under Section 7(1) of 703 KAR 5:280, as revised, a local board of education shall notify the department of “its intent to either utilize the department for the turnaround team or another option pursuant to KRS 160.346(7)” within 15 days following receipt of the audit findings, which varies but, typically, is received several weeks to even months following CSI identification.

Further, this revised regulation also brings the turnaround team notification process into alignment with KRS 160.346(7)(a), which says that, after completion of the statutorily required audit, a local board of education serving one or more schools identified for CSI shall (1) issue a request for proposals for a private entity to provide a turnaround training and support team to the school(s); (2) utilize local staff and community partners to serve as the turnaround team; or (3) select the department to serve as the turnaround team. KRS 160.346(7)(a) does not, however, prescribe a more definite timeline for this determination and notification to occur.

Pursuant to KRS 13A.010(2), “administrative regulation” is defined as a “statement...by an administrative body that implements, interprets, or prescribes law or policy.” 703 KAR 5:280, as revised, implements KRS 160.346(7) by providing necessary clarification to the turnaround team notification process by offering a defined timeline for local boards to comply with KRS 160.346(7)(a). 703 KAR 5:280, as revised, also furthers the intent of the statute by ensuring the turnaround process in CSI schools progresses in a way that allows for the full implementation of the turnaround plan “by the first full day of the school year following the school year” of CSI identification, which is mandated by KRS 160.346(7)(j).

Finally, the 15-day notification timeline imposed by 703 KAR 5:280, Section 7(1) does not conflict with other state laws with which local boards must comply. Pursuant to KRS 45A.365(3), the Model Procurement Code requires “adequate public notice of the invitation for bids...at least seven (7) days before the date set for the opening of the bids.” There also is no issue with local boards of education complying with Open Meetings laws in KRS Chapter 61, which require public agencies provide written notice of special meetings at least “twenty-four (24) hours before the special meeting.” Regular meetings do not require additional notice but must “be held at specified times and places which are convenient to the public” and be adopted “by ordinance, order, resolution, bylaws, or by whatever means may be required for the conduct of business of that public agency.”

No amendments have been made in response to these comments.

(2) Subject Matter: Timeline for the turnaround team to develop the turnaround plan.

(a) Comment: Commenter states, “The proposed regulation does not allow sufficient time for a turnaround team to develop a turnaround plan once the team is established and in place ‘on site.’”

(b) Response: The agency carefully considered this comment.

Section 7 of the amended regulation, as published in the September 2019 edition of the Administrative Register of Kentucky, neither increases nor decreases the timeline for a turnaround team in a CSI school to develop the turnaround plan required by KRS 160.346(7)(h). As currently enacted, the regulation states, "Within thirty (30) days after the audit findings are released, the turnaround team shall develop a turnaround plan pursuant to KRS 160.346(7)(h)." As revised, 703 KAR 5:280, Section 7(6) currently reads, "Within thirty (30) days after the Commissioner notifies the school, district or charter governing board, and the charter authorizer of the audit findings...the turnaround team shall develop a turnaround plan." The wording has been revised, but the intent of the regulation continues to be for the turnaround plan to be developed within thirty (30) days after the district and/or school receives the audit.

Nonetheless, the commenter is correct that, under the revised regulation, "the turnaround team may not be finalized and in place in 30 days." To allow for more robust stakeholder involvement and to best align with KRS 160.346(7)(h), which requires the turnaround plan be developed collaboratively by the local board of education, superintendent, principal, turnaround team, and advisory leadership team, 703 KAR 5:280, Section 7(6) has been amended to now provide, "Within forty-five (45) days after the Commissioner notifies the school, district or charter governing board, and the charter authorizer of the audit findings...the turnaround team shall develop a turnaround plan."

The implementation of this additional 15 days for completion of the turnaround plan accounts for the increase in the timeline for a local board of education to select a turnaround team pursuant to 703 KAR 5:280, as amended, and, in the words of the commenter, allows "adequate time" for statutory mandates related to development of the turnaround plan "to occur with fidelity." At the same time, this revised timeline is conservative enough to continue to further the intent of KRS 160.346 by ensuring the turnaround process in CSI schools progresses in a way that allows for the full implementation of the turnaround plan "by the first full day of the school year following the school year" of CSI identification, which is mandated by KRS 160.346(7)(j).

The agency amended the regulation in response to this comment.

(3) Subject Matter: Documents incorporated by reference.

(a) Comment: Commenter states, "The materials incorporated by reference will need to be amended appropriately to account for any changes that may be made to the proposed regulation in response to Comments 1 and 2."

(b) Response: The agency carefully considered this comment.

The agency did not amend the regulation in response to Comment 1 and amendments to the regulation related to Comment 2 do not necessitate amendments to the documents incorporated by reference.

No amendments have been made in response to these comments.

Summary of Statement of Consideration
And Action Taken by Promulgating Administrative Body

The public hearing on this administrative regulation was held on October 21, 2019 and written comments were received through October 31, 2019. The agency responded to the verbal and written comments received and amends the administrative regulation as follows:

Page 14

Section 7(6)

Line 13

After “within” delete “thirty (30)” and insert “**forty-five (45)**”.