

CHAPTER 227**(SB 130)**

AN ACT relating to educational assessment and accountability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.6453 is amended to read as follows:

- (1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide assessment program to be known as the Commonwealth Accountability Testing System to ensure school accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451. The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability in the development of the program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.
- (2) The assessment program shall include the following components:
 - (a) A customized or commercially available norm-referenced test that measures, to the extent possible, the core content for assessment. The test shall provide valid and reliable results for individual students;
 - (b) Open-response or multiple-choice items, or both, to assess student skills in reading, mathematics, science, social studies, the arts, the humanities, and practical living and vocational studies; and an on-demand assessment of student writing. These assessments shall measure, to the extent possible, the core content for assessment;
 - (c) Writing portfolios consisting of samples of student work. After receiving the advice of the Writing Advisory Committee, the Kentucky Board of Education shall, by September 1 following April 14, 1998, file a notice of intent to promulgate an administrative regulation which reduces the teacher and student time involved in preparing a writing portfolio. Time reduction strategies included in the administrative regulation may include, but are not limited to, limiting the time spent on a single portfolio entry, limiting the number of revisions, or collecting entries at different grade levels;
 - (d) Performance assessment events for schools that have students enrolled in performing arts organizations sponsoring sanctioned events with an established protocol for adjudication; and
 - (e) A technically sound longitudinal comparison of the assessment results for the same students.
- (3) *The provisions of subsection (2) of this section shall apply to elementary schools, and shall also apply to middle and high schools except as provided in subsections (4) to (8) of this section.*
- (4) *No later than the 2007-2008 school year, and each year thereafter, the following provisions shall apply to the assessment program for middle and high schools:*
 - (a) *The assessment program shall include:*
 1. *A high school readiness examination to assess English, reading, mathematics, and science in grade eight (8);*
 2. *A college readiness examination to assess English, reading, mathematics, and science in grade ten (10);*
 3. *The ACT college admissions and placement examination to assess English, reading, mathematics, and science, to be taken by all students in grade eleven (11); and*
 4. *Any other component necessary to comply with the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq., as determined by the United States Department of Education.*
 - (b)
 1. *A student whose scores on the high school readiness examination administered in grade eight (8) indicate a high degree of readiness for high school shall be counseled to enroll in accelerated courses; and*
 2. *A student whose scores on the college readiness examination administered in grade ten (10) or the ACT college admissions and placement examination administered in grade eleven (11)*

indicate a high degree of readiness for college shall be counseled to enroll in accelerated courses, with an emphasis on Advanced Placement classes.

- (c) *The cost of the initial ACT examination administered to students in grade eleven (11) shall be paid for by the Kentucky Department of Education. The costs of additional ACT examinations shall be the responsibility of the student.*
- (d) *The components of the middle and high school assessment program set forth in paragraph (a) of this subsection shall be administered in lieu of a customized or commercially available norm-referenced test under subsection (2)(a) of this section.*
- (5) *No later than the 2007-2008 school year, and each year thereafter, students in grades ten (10), eleven (11), and twelve (12) may take the WorkKeys assessments from ACT, Inc. in reading for information, locating information, and applied mathematics.*
 - (a) *The costs of the initial WorkKeys assessments shall be paid by the Kentucky Department of Education. The cost of additional WorkKeys assessments shall be the responsibility of the student.*
 - (b) *A student whose scores on the WorkKeys assessments indicate that additional assistance is required in reading for information, locating information, or applied mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.*
 - (c) *A student meeting the WorkKeys threshold established by the Cabinet for Workforce Development shall be issued the appropriate Kentucky employability certificate.*
- (6) (a) *The Kentucky Department of Education shall conduct periodic studies comparing the standards in reading, mathematics, and science for middle and high school within the Kentucky core content for assessment and the concepts and content measured by the ACT and the high school and college readiness examinations under subsection (4)(a) of this section.*
 - (b) *If the department determines that reading, mathematics, and science assessments required under subsection (4)(a) of this section are shown to provide direct measures of content standards and concepts identified in the Kentucky core content for assessment, the Kentucky Board of Education shall seek the advice of the Office of Education Accountability, the School Curriculum, Assessment, and Accountability Council, and the National Technical Advisory Panel on Assessment and Accountability regarding reducing the number of questions on the Commonwealth Accountability Testing System.*
 - (c) *The Kentucky Department of Education shall continue to include open-response or multiple-choice items, or both, that assess student knowledge and skills in reading, mathematics, and science to the degree necessary for adequate coverage of the elements of the Kentucky core content for assessment not covered by the examinations.*
- (7) *Accommodations provided by ACT, Inc. to a student with a disability taking the assessments under subsection (4)(a)3. of this section shall consist of:*
 - (a) *Accommodations provided in a manner allowed by ACT, Inc. when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in paragraph (b) of this subsection; or*
 - (b) *Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under paragraph (a) of this subsection when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.*
- (8) *The assessments under subsections (4) and (5) of this section shall be known as the "Kentucky Work and College Readiness Examination" or "Readiness Examination."*
- (9) *Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:*
 - (a) *Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application. The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year. Any revisions to the core content for assessment shall be*

developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;

- (b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and
 - (c) Minimize the time spent by teachers and students on assessment.
- ~~(10)(4)~~ Results from the state assessment under this section shall be reported to the school districts and schools no later than one hundred fifty (150) days following the first day the assessment can be administered.
- ~~(11)(5)~~ The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.
- ~~(12)(6)~~ In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.
- ~~(13)(7)~~ The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of *a reporting structure for assessments administered under this section. The reporting structure shall include the following components:*
- (a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:
 - ~~1.(a)~~ Student academic achievement, including the results from each of the assessments administered under this section;
 - ~~2.(b)~~ Nonacademic achievement, including the school's attendance, retention, dropout rates, and student transition to adult life; and
 - ~~3.(c)~~ School learning environment, including measures of parental involvement;
 - (b) *An individual student report to parents for each fifth grade student summarizing the student's readiness in reading and mathematics based on the student's fourth grade state assessment results. The school's fifth grade staff shall develop a plan for accelerated learning for any student with identified deficiencies;*
 - (c) *An individual report for each student who takes a high school or college readiness examination administered under subsection (4)(a) of this section that:*
 - 1. *Provides the student's test scores;*
 - 2. *Provides a judgment regarding whether or not a student has met or failed to meet the expectations for each standard assessed; and*
 - 3. *Is designed to assist students, parents, and teachers to identify, assess, and remedy academic deficiencies prior to high school graduation; and*

- (d) *A student's scores on the ACT examination or WorkKeys assessments administered under subsections (4)(a) and (5) of this section and the ACT examination under subsection (5) of Section 2 of this Act shall be recorded on his or her official high school transcript.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *A high school student whose scores on the high school readiness examination administered in grade eight (8), on the college readiness examination administered in grade ten (10), or on the WorkKeys indicate that additional assistance is required in English, reading, or mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.*
- (2) *A high school student whose score on the ACT examination under subsection (4)(a)3. of Section 1 of this Act in English, reading, or mathematics is below the system-wide standard established by the Council on Postsecondary Education for entry into a credit-bearing course at a public postsecondary institution without placement in a remedial course or an entry-level course with supplementary academic support shall be provided the opportunity to participate in accelerated learning designed to address his or her identified academic deficiencies prior to high school graduation.*
- (3) *A high school, in collaboration with its school district, shall develop and implement accelerated learning that:*
 - (a) *Allows a student's learning plan to be individualized to meet the student's academic needs based on an assessment of test results and consultation among parents, teachers, and the student; and*
 - (b) *May include changes in a student's class schedule.*
- (4) *The Kentucky Department of Education, the Council on Postsecondary Education, and public postsecondary institutions shall offer support and technical assistance to schools and school districts in the development of accelerated learning.*
- (5) *A student who participates in accelerated learning under this section shall be permitted to take the ACT examination a second time prior to high school graduation at the expense of the Kentucky Department of Education. The cost of any subsequent administrations of the achievement test shall be the responsibility of the student.*

Section 3. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

- (1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.
- (b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%). A student shall be included in the annual average dropout rate if the student was enrolled in the school of record for at least thirty (30) days during the school year prior to the day he or she was recorded as dropping out of school. A student shall not be included in a school's annual average dropout rate if:
 1. The student is enrolled in a district-operated or district-contracted alternative program leading to a certificate of completion or a General Educational Development (GED) diploma; or
 2. The student has withdrawn from school and is awarded a General Educational Development (GED) diploma by October 1 of the following school year.

- (c) A student enrolled in a district-operated or district-contracted alternative program shall participate in the appropriate assessments required by the Commonwealth Accountability Testing System established in KRS 158.6453.
- (2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline, ***except the Department of Education shall seek advice from the National Technical Advisory Panel on Assessment and Accountability for adjustments required if substantive changes are made to the assessment and accountability system.*** The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.
- (3) A student's test scores shall be counted in the accountability index of:
- (a) 1. The school in which the student is currently enrolled if the student has been enrolled in that school for at least one hundred (100) days of the school year prior to the beginning of the statewide testing period; or
 2. The school in which the student was previously enrolled if the student was enrolled in that school for at least one hundred (100) days of the school year prior to the beginning of the statewide testing period; and
 - (b) The school district if the student is enrolled in the district for at least one hundred (100) days of the school year prior to the beginning of the statewide testing period; and
 - (c) The state if the student is enrolled in a Kentucky public school prior to the beginning of the statewide testing period.
- (4) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:
- (a) A scholastic audit process under subsection (5) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;
 - (b) School improvement plans;
 - (c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;
 - (d) Education assistance from highly skilled certified staff under KRS 158.782;
 - (e) Evaluation of school personnel; and
 - (f) Student transfer to successful schools.
- (5) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:
1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;
 2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with KRS 160.345(2)(j);

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and
 4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.
- (b) The scholastic audit team shall consider the functioning of the school council in its review and make recommendations for improvement of the school council, if needed, and concerning the authority of the school council if required under KRS 160.346.
 - (c) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.
- (6) All students who drop out of school during a school year shall be included in a school's annual average school dropout rate, except as provided in subsection (1)(b) of this section.
 - (7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.
 - (8) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

Approved April 22, 2006.