

**EDUCATION AND LABOR CABINET**  
**Kentucky Board of Education**  
**Department of Education**  
**(Amendment)**

**704 KAR 3:095. The Use of a Multitiered System of Supports.**

RELATES TO: KRS 158.305, 156.070, 156.160, 156.488, 158.070(7), 158.645, 158.791, 158.6451, 158.6453(17)(b), 158.6459

STATUTORY AUTHORITY: KRS 156.070, 156.160, 158.305(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 156.160(1) requires the Kentucky Board of Education to promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. KRS 158.305(2) requires the Kentucky Board of Education to promulgate administrative regulations to further define a multitiered system of supports for individual students in K-3 that includes a tiered continuum of interventions, using evidence-based research, with varying levels of intensity and duration. KRS 158.6459 requires the Kentucky Department of Education to support schools and school districts in developing accelerated learning opportunities to address academic deficiencies of high school students prior to high school graduation. KRS 156.488 requires the Kentucky Department of Education to develop enhanced courses for students in grade 6, grade 9, grade 10, grade 11, and grade 12 that are academically behind. KRS 158.791 requires the Kentucky Department of Education to support school districts in developing teaching strategies to address academic deficiencies of students. This administrative regulation establishes the requirements for a district-wide multitiered system of supports for students in K-12.

Section 1. Definitions.

- (1) "Diagnostic assessment" means a formal or informal student assessment, utilizing valid and reliable tools, given to guide instruction and tailor interventions based upon individual student academic and behavioral strengths and needs in order to accelerate progress toward proficiency;
- (2) "Differentiation" means the tailoring of curriculum, teaching environments, and practices to create appropriately different learning experiences to meet individual student needs while recognizing each student's learning differences, varying interests, readiness levels, and level of responsiveness to Tier 1 universal instruction;
- (3) "Evidence-based" has the same meaning as in 20 U.S.C. sec. 7801(21);
- (4) "Implemented with fidelity" means the accurate and consistent delivery or application of instructional resources, interventions and assessments as they were designed to be used.
- (5) "Intervention" means an academic or behavioral instruction, practice, strategy, or curriculum that is identified through data-based problem-solving and provided to meet a student's academic and behavioral needs, in addition to Tier 1 universal instruction;
- (6) "Multitiered system of supports" or "MTSS" means a multi-level prevention system designed to maximize student achievement and social and behavioral competencies through an integration of differentiated universal instruction, assessment, and intervention.
- (7) "Tier 1 universal instruction" means instruction provided to all students based on the state's academic standards as set forth in 704 KAR 3:303 and 704 KAR Chapter 8, and is aligned with KRS 158.6451;]

(8) "Tier 2 targeted intervention" means supplemental evidence-based intervention, in addition to and in alignment with Tier 1 universal instruction, for students identified by universal screening and diagnostic assessment data as at-risk for not meeting grade-level academic or behavioral benchmarks;

(9) "Tier 3 intensive intervention" means that, in addition to Tier 1 universal instruction and Tier 2 targeted intervention, a student is provided evidence-based intervention services, based on diagnostic assessment and progress monitoring data, with an intensity and duration matched to the student's individualized academic and behavioral needs; and

(10) "Universal screening" means a systematic process of analyzing students' performance at certain points during the academic year, utilizing valid and reliable tools to assess the learning and achievement of all students in academics and related behaviors, that may include validated indicators such as course performance, attendance, and behavior data to evaluate the effectiveness of Tier 1 universal instruction and determine which students need closer monitoring or intervention.

Section 2. Each local school district shall implement a comprehensive MTSS for K-12 that includes:

(1) A tiered delivery system with a continuum of differentiated Tier 1 universal instruction, Tier 2 targeted intervention, and Tier 3 intensive intervention, delivered by individuals most qualified to provide the intervention services, in order to maximize each student's academic and behavioral outcomes;

(2) Universal screening and diagnostic assessments to determine individual student needs and baseline performance;

(3) Interventions that:

(a) Are evidence-based;

(b) Vary in intensity and duration based on student need;

(c) Meet the needs of the individual student;

(d) Are implemented with fidelity;

(e) Are delivered by individuals most qualified to provide the intervention services; and

(f) Are monitored through a comparison of baseline data collected prior to intervention and ongoing progress data;

(4) Support for early intervention to address academic and behavioral issues; and

(5) Data-based documentation of:

(a) Assessments or measures of behavior;

(b) Progress during instruction;

(c) Evaluation, at regular intervals, for continuous progress; and

(d) Individual student progress reports shared with the parents of each student in K-12 that summarize the student's academic skills, behavior, and any intervention plans and services being delivered.

Section 3. Each local district shall submit to the Kentucky Department of Education by October 1 of each year evidence demonstrating districtwide implementation of a comprehensive MTSS.

(1) Evidence provided by the district shall address implementation requirements as provided in Section 2 of this administrative regulation for grades K-12.

(2) The district shall also submit evidence of implementation for K-3 required by KRS 158.305(2).

*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).*

*ROBIN FIELDS KINNEY, Interim Commissioner of Education*

*SHARON PORTER ROBINSON, Ed.D., Chairperson*

APPROVED BY AGENCY: December 7, 2023

FILED WITH LRC: December 8, 2023 at 9:25 a.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this proposed administrative regulation shall be held February 28, 2024 at 10:00 am, in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 29, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

**CONTACT PERSON:** Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email [regcomments@education.ky.gov](mailto:regcomments@education.ky.gov).