

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

703 KAR 5:240. Accountability administrative procedures and guidelines.

RELATES TO: KRS 36.042, 158.150, 158.6451, 158.6453, 158.6455

STATUTORY AUTHORITY: KRS 158.6453, 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6453(3)(a) and KRS 158.6455(1)(a) require the Kentucky Board of Education to promulgate administrative regulations to create and implement a balanced statewide assessment and accountability program that measures the achievement of students, schools, and districts; complies with the federal Every Student Succeeds Act of 2015, 20 U.S.C. 6301 et seq.; and ensures accountability. This administrative regulation establishes administrative procedures and guidelines for Kentucky's assessment and accountability program.

Section 1. Definitions.

- (1) "Accountable School" means a school that is:
 - (a) Under administrative control of a principal and eligible to establish a school-based decision-making council; and
 - (b) Not an alternative education program operated by, or as a part of, another school.
- (2) "Alternative education program" is defined by KRS 160.380(1)(b).
- (3) "Full Academic Year" means 100 or more instructional days of enrollment within the school year.
- (4) "Full-Time Enrolled Online, Virtual and Remote Learning Program" is defined by 704 KAR 3:535, Section 1(5).

Section 2. Assigning Students for School and District Accountability.

- (1)
 - (a) A student enrolled in an accountable school for a full academic year shall be counted in the accountability membership of the accountable school and shall be attributed to the accountable school for accountability purposes.
 - (b) A student qualifying as an early graduate based on criteria established in 704 KAR 3:305 shall be included in the school's accountability calculation in the year in which the student graduates, whether or not the student has a full academic year of enrollment.
- (2) A student enrolled in an accountable school and attending an alternative education program during the year as a result of local school district policies or procedures shall be counted in the accountability membership of the accountable school and shall be attributed to the accountable school for accountability purposes if the student's combined enrollment in the accountable school and alternative education program is a full academic year.
- (3) A student enrolled in an alternative education program for a full academic year as a result of local school district policies or procedures without any enrollment in an accountable school during the same year shall be attributed to the accountability of the district that the student would have attended if not enrolled in the alternative education program.
- (4) A student not enrolled in any accountable school or an alternative education program for a full academic year, but enrolled in a district for a full academic year, shall be assigned to the district for accountability purposes.

(5) The Department of Education shall monitor alternative school placements. If evidence indicates a district is inappropriately placing students into alternative programs to avoid inclusion in accountability, the district shall be further investigated by the Department of Education.

Section 3. Assigning Students for State Accountability.

(1) Students not attributed to an accountable school or a district, shall be aggregated into a state level accountability report.

(2) If a student, before completing a full academic year in a school or district as established in Section 2 of this administrative regulation, is enrolled in an alternative education program by a court, a governmental agency other than a Kentucky public school or Kentucky school district, the student shall be accountable to the state.

Section 4. Inclusion of Schools in Accountability.

(1) All accountable schools shall receive annual accountability classifications as established in 703 KAR 5:270, for the state's assessment and accountability system.

(2)

(a) For reporting purposes, all alternative education programs and full-time enrolled online, virtual and remote learning programs shall receive annual accountability reports based on tested students.

(b) Reports for alternative education programs and full-time enrolled online, virtual and remote learning programs shall be separate from the accountable school accountability reporting.

(c) The alternative education program and full-time enrolled online, virtual and remote learning program reports shall state the unique features and characteristics of each program and the appropriate uses and limitations of the data.

Section 5. Standard Grade Configuration for Accountability.

(1) Accountable grade level configurations shall be elementary, middle, or high school.

(a) Elementary shall include any configuration of grades K-5 or K-6.

(b) Middle school shall include any configuration of grades 5-8 or 6-8.

(c) High school shall include any configuration of grades 9-12.

(2) An accountable school or an alternative education program or a full-time enrolled online, virtual and remote learning program shall fall into one (1), two (2), or three (3) grade level configurations for accountability reporting.

Section 6. Reporting of Schools with Changed School Service Area.

(1)

(a) For reporting purposes, a school's past data trend shall be removed from public reporting if a school has a significant change in its stable population.

(b) A school shall be considered to have a stable population, if as a result of a change in service area boundaries or local board of education policies affecting student population served by a school, the population of the school remains at sixty (60) percent or higher of its original students from the previous year in the accountability grades.

(c) To determine if the population is stable, the number of students in the stable population shall be divided by the total number of students in the grades included in the accountability calculations.

1. If the stable population is sixty (60) percent or higher, the school's past trend data shall be reported.

2. If the stable population is less than sixty (60) percent, the school's past trend data shall not be reported.

(2) A school district shall notify the Department of Education of any school that will have an unstable population compared to the prior year by June 30.

Section 7. Data Review and School or District Appeal of Accountability Classifications.

- (1) A written request for a data review shall be submitted to the Department of Education within ten (10) days after the Department of Education officially releases the final accountability classifications as established in 703 KAR 5:270, to the public.
- (2) A written appeal of a final accountability classification shall be submitted to the Commissioner of Education within forty-five (45) days after the Department of Education officially releases the accountability classifications. The appeal of a final classification shall:
 - (a) Identify clearly the basis for the wrongful effect on the calculations used to place a school into a classification; and
 - (b) State in detail the requested adjustment to be made to the calculations used to place a school into a classification.
- (3)
 - (a) The request for an appeal for a school accountability classification shall be signed by the principal upon approval of the school council. If there is no school council, the request shall also be signed by the superintendent, upon approval of the local board of education.
 - (b) The request for an appeal for a district accountability classification shall be signed by the superintendent upon approval of the local board of education.
- (4)
 - (a) Department of Education staff shall review the request for an appeal against the standards established in KRS 158.6455(6).
 - (b) A committee shall be appointed by the Commissioner of Education to review the pending appeals and make recommendations to the Commissioner of Education as to whether or not to dispute an appeal. The committee may include a teacher, a parent, a principal, a district assessment coordinator, a superintendent, and a counselor.
 - (c) If the appeal is disputed by the department, it shall submit the request to the hearing officer for the Kentucky Board of Education.
- (5) The hearing officer shall conduct a hearing in accordance with KRS Chapter 13B. The hearing officer shall submit a written recommended order to the Kentucky Board of Education for the board's consideration in rendering its final order, in accordance with KRS Chapter 13B.

Section 8. Student Participation in State Assessments.

- (1)
 - (a) All students enrolled shall participate at the appropriate grade level for the state-required assessments in grades 3-12.
 - (b) For assessment and accountability purposes, the state shall not use the primary level designator and all students in grades 3-12 shall be assigned a single grade level. The assigned grade level shall determine the state tests to administer.
 - (c) Exceptions for testing shall be made for medical-exempted students.
 - (d) Students categorized as English Learners (EL) shall follow testing guidelines established by the federal Every Student Succeeds Act of 2015, 20 U.S.C. 6301 et seq.
- (2) For the state assessments in grades 3-12, a school shall test all students during the test window that are enrolled in each accountability grade on the first day of the school's testing window and shall complete a roster in the electronic application provided by the Department of Education.
- (3) A student retained in a grade in which state-required assessments are administered shall participate in the assessments for that grade again and shall continue to be included in all accountability calculations.
- (4) A student who is suspended or expelled but continues to receive instructional services required under KRS 158.150 shall participate in the state-required assessments.

Section 9. Students Not Participating in State-Required Assessments.

- (1) If a student does not participate in state-required assessments, the school at which the student was enrolled on the first day of the testing window shall include the student in the roster in the electronic application provided by the Department of Education.
- (2) A student who does not take the state assessments and does not qualify for approved exempted status shall be assigned the lowest reportable score on the appropriate test for accountability calculations.
- (3) A student reaching the age of twenty-one (21) years of age who no longer generates state funding under Support Education Excellence in Kentucky shall not be required to participate in state-required assessments.
- (4) A student who is expelled and legally not provided instructional services under the standards established in KRS 158.150 shall not be considered to be enrolled for a full academic year and shall not be included in accountability calculations.
- (5) If a student has been expelled or suspended at some point during a year and is enrolled but does not complete the state-required assessment, the student shall be included in the accountability calculation.
- (6)
 - (a) If participation in the state-required assessment would jeopardize a student's physical, mental, or emotional well-being, a school or district shall submit a request for medical exemption to the Department of Education for approval. The request shall state the medical condition that warrants exempting a student from the assessments.
 - (b) An identified disability or handicapping condition alone shall not be considered sufficient reason for granting a medical exemption to state-required assessment and accountability requirements.
 - (c) A student with an approved medical exemption shall be excluded from state-required assessments and accountability calculations.
- (7) If the student moves out of state or to a private school before state-required assessments can be completed in the school or district's announced testing window, the student shall be excluded from accountability calculations.

Section 10. Required Participation in the National Assessment of Educational Progress (NAEP) and State-Required Field Testing.

- (1) If a school is selected by the U.S. Department of Education or its designated contractors to participate in NAEP testing, the school shall participate fully.
 - (2) If a school is selected by the Department of Education to participate in field testing for state assessment purposes, the school shall participate fully.
- (38 Ky.R. 1407; 39 Ky.R. 32; eff. 7-13-2012; 41 Ky.R. 2042; eff. 6-8-2015; 46 Ky.R. 1029; eff. 4-3-2020; 47 Ky.R. 2480; 48 Ky.R. 798; eff. 11-30-2021; TAm eff. 7-20-2023; 51 Ky.R. 559; eff. 12-10-2024.)

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).

ROBBIE FLETCHER, Ed.D., Commissioner
SHARON PORTER ROBINSON, Chairperson

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: August 9, 2024 at 3:05 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 23, 2024 at 10 a.m., 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 five workdays prior to the

hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. 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 October 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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.